



City of Kingsburg

1401 Draper Street, Kingsburg, CA 93631-1908
Phone (559)897-5821 Fax (559)897-5568

Mayor Michelle Roman
Mayor Pro Tem Laura North
Council Member Sherman Dix
Council Member Vince Palomar
Council Member Jewel Hurtado

City Manager Alexander J. Henderson

AGENDA KINGSBURG CITY COUNCIL REGULAR MEETING

Council Chamber, 1401 Draper Street, Kingsburg, CA 93631 (559) 897-5821
www.cityofkingsburg-ca.gov

Wednesday, September 18, 2019 at 6pm

6 P.M. REGULAR SESSION MEETING:

Invocation to be given by Pastor Ricky Chambers of Kingsburg Community Church, followed by the Pledge of Allegiance led by Mayor Michelle Roman.

- 1. Call to Order and Roll Call**
- 2. Public Comments:** This is the time for any citizen to come forward and address the City Council on any issue within its jurisdiction that is not listed on the Agenda. A maximum of five (5) minutes is allowed for each speaker.
- 3. Approve Agenda:** Action by the Council to approve the agenda or to make modifications. Items that can be added to the agenda is constrained by State law.
- 4. Consent Calendar:** Items considered routine in nature are to be placed on the Consent Calendar. They will be considered as one item and voted upon in one vote unless individual consideration is requested. Each vote in favor of the Consent Calendar is considered and recorded as a separate affirmative vote in favor of each action listed. Approval of the Consent Calendar items include recitals reading ordinance(s) by titles(s) only and adoption of recommended action(s) contained in Staff Reports.
 - 4.1 Approval of City Council Minutes:** Approve the minutes from the September 4, 2019 Regular City Council Meeting, as prepared by City Clerk Abigail Palsgaard.
 - 4.2 Check Register:** Ratify/approve payment of bills listed on the check register for the period August 29, 2019 through September 11, 2019 as prepared by Accounts Payable Clerk Grace Reyna.

- 4.3 Adopt Resolution No. 2019-048-** Kingsburg Housing, LLC Consent and Election to Annex Real Property to the Existing Community Facility District 2017-01 – Staff Report Prepared by City Clerk Abigail Palsgaard.
- 4.4 Approve the proposed Wage Schedule that included updated wages for reserve firefighters-** Staff Report prepared by Director of Administrative Services Christina Windover.

5. Regular Calendar

- 5.1 Capital Improvement Plan Update-** Oral Report by City Engineer Dave Peters
Possible Action(s):
 - a. Presentation by City Engineer Dave Peters
 - b. Council Discussion
 - c. Informational- No Action Necessary
- 5.2 Fresno County Rural Transit Agency Trolley Use Policy Discussion-** Staff report prepared by City Manager Alexander Henderson
Possible Action(s):
 - a. Presentation by City Manager Alexander Henderson
 - b. Council Discussion
 - c. Action as Deemed Necessary
- 5.3 Creation of a Downtown Business Improvement District -** Prepared by City Manager Alexander Henderson
Possible Action(s):
 - a. Presentation by City Manager Alexander Henderson
 - b. Council Discussion
 - c. Action as Deemed Necessary
- 5.4 Crime Statistics Report for the Month of August 2019 and General Police Department Update-** Crime Statistics Report prepared by Kingsburg Police Department Records Supervisor Corina Padilla.
Possible Action(s):
 - a. Presentation by Sergeant Stephens
 - b. Council Discussion
 - c. Informational- No Action Necessary

6. Council Reports and Staff Communications

- 6.1** Community Services Commission
- 6.2** Public Safety Committee
- 6.3** Chamber of Commerce
- 6.4** Economic Development
- 6.5** Finance Committee
- 6.6** Planning Commission
- 6.7** South Kings Groundwater Sustainability Agency Joint Powers Authority (SKGSA)
- 6.8** City Manager's Report

7. **Other Business that may come properly before the City Council**
8. **Future Agenda Items**
These items will be added to a future agenda with direction from Council.
9. **Adjourn Regular Kingsburg City Council Meeting.**

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the City Clerk's office, during normal business hours. In addition, such writings and documents may be posted on the City's website at www.cityofkingsburg-ca.gov.

I hereby certify, under penalty of perjury under the laws of the State of California that the foregoing Agenda was posted at the front entrance of City Hall not less than 72 hours prior to the meeting. Dated this 13th day of September 2019.

Abigail Palsgaard, City Clerk

**Kingsburg City Council
Regular Meeting Minutes
September 4, 2019**

6 P.M. REGULAR SESSION MEETING:

Invocation was given by Pastor Jeff Nathan of Refinery Church, followed by the Pledge of Allegiance led by Mayor Michelle Roman.

Call to Order and Roll Call – At 6:00 P.M. Mayor Michelle Roman called the regular meeting of the Kingsburg City Council to order.

Council Members Present: Vince Palomar, Sherman Dix, Laura North, and Mayor Michelle Roman.

Council Member(s) Absent: Jewel Hurtado.

Staff Present: City Manager Alexander Henderson, City Attorney Michael Noland, City Clerk Abigail Palsgaard, City Engineer Dave Peters, and Fire Chief Dan Perkins.

Public Comments: None.

Approve Agenda: A motion was made by Council Member North, seconded by Council Member Dix, to approve the Agenda, as published. The motion carried by unanimous voice vote of those Council Members present.

Consent Calendar: Council Member Dix asked that Item No. 4.5 be pulled for discussion. He then moved to approve the remaining Items on the Consent Calendar. The motion was seconded by Council Member Palomar and carried by unanimous voice vote of those Council Members present.

- 4.1 Approval of City Council Minutes:** Approve the minutes from the August 7 & August 21, 2019 Regular City Council Meeting, as prepared by City Clerk Abigail Palsgaard.
- 4.2 Check Register:** Ratify/approve payment of bills listed on the check register for the period August 15, 2019 through August 28, 2019 as prepared by Accounts Payable Clerk Grace Reyna.
- 4.3 Adopt Resolution No. 2019-046-** A Resolution of the City Council of the City of Kingsburg Approving And Consenting To The Proposed KHS Marching Band Competition And Recommends Approval Of And Consents To The Proposed Restriction Of The State Highway Route 201 Upon Terms And Conditions Deemed Appropriate And Necessary By The State Of California, Department Of Transportation.
- 4.4 Adopt Resolution No. 2019-047-** Parminder Singh Sohal Consent and Election to Annex Real Property to the Existing Community Facility District 2017-01 – Staff Report Prepared by City Clerk Abigail Palsgaard

Council Member Dix said that he had accidentally pulled Item 4.5 when meant 4.4. A motion was made by Council Member Dix, seconded by Council Member Palomar, to approve Consent Calendar Item No. 4.5. The motion carried by unanimous voice vote of those Council Members present.

- 4.5 Second Reading and Adoption of Ordinance 2019-005-** Waive the second reading and adopt Ordinance No. 2019-005, An Ordinance Of The City Of Kingsburg

Amending Title 17 - Zoning, Of The Kingsburg Municipal Code, Zoning Real Property From The Rm-3 To The Rm-2 District On Property Located On .72 Acres Of Land Located On The Northeast Corner Of Tulare Street And 12th Avenue In Kingsburg with the following recital constituting reading the title of the Ordinance:

“AN ORDINANCE OF THE CITY OF KINGSBURG AMENDING TITLE 17 - ZONING, OF THE KINGSBURG MUNICIPAL CODE, ZONING REAL PROPERTY FROM THE RM-3 TO THE RM-2 DISTRICT ON PROPERTY LOCATED ON .72 ACRES OF LAND LOCATED ON THE NORTHEAST CORNER OF TULARE STREET AND 12TH AVENUE IN KINGSBURG”

Discussion on Consent Calendar Item 4.4- Council Member Dix asked what property this is. City Manager Alexander Henderson said that it is at Academy and Kamm.

REGULAR CALENDAR

Continued from 8/21/2019: Groundwater Sustainability Agency (GSA) Update- Staff Report Prepared by City Engineer Dave Peters

City Engineer Dave Peters briefly explained the Groundwater Sustainability Agency Agreement with the Consolidated Irrigation District (“CID”). He said that at the July meeting CID had requested a fee for additional water for growth. They are no longer requesting this fee. He said that staff is asking for direction from Council to approve the GSA Agreement in October. The Groundwater Sustainability Plan in draft was reviewed by the Board this month. The Plan is on the street for public comment for 90 days. We have 3 basins that can accept water from CID right now. With minor modifications, the Erling Basin can do the same. Any new development will be charged an impact fee for groundwater recharging. He said that they are trying to have workshops in all member agencies. A Kingsburg workshop is planned for November.

Mayor Roman asked if we can utilize SKF’s recharge ponds. City Manager Alexander Henderson said that we do get a credit for some of the water that we are sending back. He said that this may be a possibility, but they are protective due to their state license. Council Member Dix asked about drought years and the ten-year term of the agreement. Council Member North said that she wants to make sure recharging basins are not counted as park space. Council Member Palomar said there are other parks that have basins by them. Maybe we can utilize those facilities. Council Member Palomar said that he is glad that CID removed the fee and the Agreement wouldn’t be changed.

A motion was made by Council Member North, seconded by Council Member Dix, to direct staff to approve the GSA Agreement in October. Ayes: Council Members Dix, North, and Mayor Roman. Nays: Council Member Palomar. Absent: Council Member Hurtado. Motion carried.

Fresno County Rural Transit Agency Trolley Use Policy Discussion- Staff report prepared by City Manager Alexander Henderson

City Manager Alexander Henderson presented, and Council discussed options for use of the trolley.

Council discussed allowing alcohol, rental policies, fees, drivers, routes, service areas, days of operation and other options.

Mr. Henderson said that we can get EDC to work out some routes.

Council would like blue cushions for the trolley.

September 2019 Kingsburg Fire Department Council Update- Report prepared by Fire Chief Daniel Perkins

Chief Perkins spoke about the gravity of 9/11, reopening Fire Station 2, staffing hours and responses from Station 2. They will be having classes on CPR and choking.

Council Member Dix asked the reason to reopen Station 2. Chief Perkins said that it is not response time, but from a risk management perspective the City is dissected by the train tracks and Highway 99.

Informational- No Action Necessary

Council Reports and Staff Communications

Community Services Commission- Council Member North reported that they discussed new trash cans for the downtown area that would include recycling. The Committee discussed the Prop 68 grant process and fundraisers.

Public Safety Committee – Council Member Palomar reported that they have not met.

Chamber of Commerce – Council Member North reported on the Crayfish Festival on September 21.

Economic Development Committee- City Manager Alexander Henderson reported that it hasn't met since the last meeting.

Finance Committee – City Manager Alexander Henderson reported that they met and discussed solid waste rates.

Planning Commission – City Manager Alexander Henderson reported that they will meet on the 4th.

South Kings Groundwater Sustainability Agency Joint Powers Authority (SKGSA) City Manager Alexander Henderson said that we had an update on this earlier.

City Manager's Report – Mr. Henderson spoke about the pool resurfacing, a phone conference with Airbnb, and getting Measure E funds from the previous year.

Other Business that may come properly before the City Council

Mayor Roman stated that she and Council Member Hurtado will be hosting a meeting with the public on September 10, 2019. She suggested having a rotating schedule with Council Members for future meetings. City Attorney Michael Noland said that staff could agenzized the meeting and all five Council Members could be present. With only two Council Members meeting there could be Brown Act issues dependent

on what is being discussed. Using staff time for individual Council Members is problematic. Mayor Roman said that they will cancel it and move forward with all five members. She said there was no bad intent. Council agreed that an informal discussion outside of the Council Chamber would be something they would be interested in.

Cancellation of 10/16/2019 City Council Meeting due to lack of quorum (Annual League of California Cities Conference). A motion was made by Council Member Dix, seconded by Council Member Palomar to cancel the 10/16/2019 City Council Meeting for the reason stated. The motion carried by unanimous voice vote of those Council Members present.

Mayor Roman thanked staff for setting-up for 3rd graders City Hall mock council meetings and tours.

Future Agenda Items

These items will be added to a future agenda with direction from Council.

Council Member North asked if there have been complaints about the increase in water rates. Mr. Henderson said, “no”.

The Regular Kingsburg City Council Meeting was Adjourned at 8:05pm.

Abigail Palsgaard, City Clerk

Accounts Payable

Checks by Date - Summary by Check Date

User: gracer
Printed: 9/12/2019 4:17 PM



City of Kingsburg
1401 Draper Street
Kingsburg, CA 93631-1908
(559)897-5821

Check No	Vendor No	Vendor Name	Check Date	Check Amount
ACH	3470	Internal Revenue Service - ACH	08/30/2019	1,208.78
ACH	3471	Employment Development Department - A	08/30/2019	79.01
ACH	3470	Internal Revenue Service - ACH	08/30/2019	221.03
ACH	3231	ICMA RETIREMENT CORPORATION - 1	08/30/2019	484.20
ACH	3470	Internal Revenue Service - ACH	08/30/2019	40,485.91
ACH	3471	Employment Development Department - A	08/30/2019	6,522.69
ACH	3472	CalPERS - ACH	08/30/2019	30,507.44
ACH	3526	Public Employees Retirement System 457 I	08/30/2019	20.00
Total for 8/30/2019:				79,529.06
76461	3006	AIRGAS NCN	09/05/2019	1,079.04
76462	3993	TOM ALBERDA	09/05/2019	75.00
76463	3018	ANDERSON STRIPING & CONSTRUCT	09/05/2019	14,962.00
76464	3019	ANDERSON'S MOBILE ELECTRONICS	09/05/2019	2,590.37
76465	3027	AT & T	09/05/2019	275.37
76466	3753	ATTENTION TO DETAIL	09/05/2019	1,000.00
76467	3042	BEST UNIFORMS	09/05/2019	2,484.34
76468	3054	BSK ASSOCIATES	09/05/2019	35.00
76469	3067	CARDMEMBER SERVICE	09/05/2019	12,394.47
76470	3991	JOSH CAREY	09/05/2019	68.00
76471	4124	NICHOLAS CASSEL	09/05/2019	1,263.28
76472	3074	CENTRAL SANITARY SUPPLY	09/05/2019	235.65
76473	3079	CENTRAL VALLEY SWEEPING, INC.	09/05/2019	24,050.00
76474	3114	8155 50 019 0015979 COMCAST-F & A	09/05/2019	231.53
76475	3750	EAGLE ENGRAVING, INC.	09/05/2019	167.28
76476	3987	MARK EATON	09/05/2019	475.00
76477	3158	ENER POWER	09/05/2019	7,247.00
76478	3955	FIRE APPARATUS SOLUTIONS	09/05/2019	2,004.53
76479	3199	FMAAA	09/05/2019	504.50
76480	3222	HENRY SCHEIN, INC.	09/05/2019	825.43
76481	3550	HERWALDT MOTORSPORTS	09/05/2019	2,210.95
76482	3225	HOME DEPOT CREDIT SERVICES	09/05/2019	232.67
76483	3999	IRON MOUNTAIN	09/05/2019	409.50
76484	3534	JACK'S REFRIGERATION, INC.	09/05/2019	135.00
76485	3244	JORGENSEN & CO.	09/05/2019	941.04
76486	3249	KAISER FOUNDATION HEALTH PLAN	09/05/2019	3,323.66
76487	3250	KELLER FORD LINCOLN	09/05/2019	72.58
76488	3887	KINGS INDUSTRIAL OCC. MED CTR., 1	09/05/2019	3,741.00
76489	3253	KINGSBURG CHAMBER OF COMMER	09/05/2019	2,500.00
76490	4125	KINGSBURG LIONS CLUB	09/05/2019	58.00
76491	4081	L.N. CURTIS & SONS	09/05/2019	1,781.97
76492	3276	LIFE ASSIST INC	09/05/2019	272.44
76493	3277	LINCOLN AQUATICS	09/05/2019	1,911.28
76494	3307	NELSON'S ACE HARDWARE	09/05/2019	1,327.38
76495	3315	P G & E	09/05/2019	7,043.96
76496	3316	CORINA PADILLA	09/05/2019	262.27

Check No	Vendor No	Vendor Name	Check Date	Check Amount
76497	3450	ABIGAIL PALSGAARD	09/05/2019	95.97
76498	3321	PETERS ENGINEERING GROUP	09/05/2019	79,533.28
76499	3329	POLYACK MARKETING	09/05/2019	3,300.00
76500	3334	PROFESSIONAL PRINT & MAIL, INC	09/05/2019	169.25
76501	3343	R & B COMPANY	09/05/2019	362.84
76502	3537	SECOND CHANCE ANIMAL SHELTER	09/05/2019	3,250.00
76503	3369	SILVAS OIL COMPANY, INC.	09/05/2019	2,634.91
76504	3375	SNAP-ON-TOOLS	09/05/2019	44.68
76505	4028	SUPERIOR POOL CARE	09/05/2019	2,600.00
76506	4123	T.P. THOMAS PLUMBING	09/05/2019	104.00
76507	3506	TOSHIBA FINANCIAL SERVICES	09/05/2019	691.99
76509	3992	CHARLES UNDERWOOD	09/05/2019	68.00
76510	3414	ERIC VASQUEZ	09/05/2019	144.93
76511	3416	VERIZONWIRELESS	09/05/2019	937.64
76512	3419	VIKING CLEANING SERVICE	09/05/2019	3,076.02
76513	3493	VILLAGE TIRE SALES	09/05/2019	9.75
76514	3421	VINCENT COMMUNICATIONS, INC.	09/05/2019	193.28
76515	3469	WECO SUPPLY CO., INC.	09/05/2019	32.55
76516	3448	CHRISTINA WINDOVER	09/05/2019	35.00
76517	3430	WONG, ANDY & BETTY	09/05/2019	2,600.00
76518	3433	EVA ZIMMERMAN	09/05/2019	63.00
76519	UB*00038	NAPA AUTO PARTS OF KINGSBURG	09/05/2019	110.88
76520	UB*00038	NAPA AUTO PARTS OF KINGSBURG	09/05/2019	66.70
76521	3409	U. S. BANK	09/05/2019	2,200.00
Total for 9/5/2019:				200,516.16
Report Total (68 checks):				280,045.22



Meeting Date: 09/18/2019
Agenda Item: 4.3

CITY COUNCIL MEETING STAFF REPORT

REPORT TO: Mayor Roman & City Council

REPORT FROM: Abigail Palsgaard, City Clerk **REVIEWED BY:** AH

AGENDA ITEM: Annexation No. 2019-03 (Kingsburg Housing, LLC) to Community Facilities District No. 2017-01 for Public Services

ACTION REQUESTED: ☐ Ordinance ☒ Resolution ☒ Motion ☐ Receive/File

EXECUTIVE SUMMARY

The enclosed plats show the location of the following properties to be added to the Community Facilities District (CFD) No. 2017-01 for Public Services.

Annexation 2019-03 For APN 394-021-42

The owners of the above properties were conditioned to annex to a Community Facilities District as a condition of the Tentative Map, building permit, or conditional Use Permit approval. Resolution No. 2017-023 adopted by City Council on June 7, 2017 authorizes the City to annex to CFD 2017-01 properties, which will be assessed only for eligible public services, without further public hearings or formal elections upon receipt of written consent from the owners.

RECOMMENDED ACTION BY CITY COUNCIL

1. Adopt Resolution No. 2019-048 certifying and adding the above properties to CFD No. 2017-01.

POLICY ALTERNATIVE(S)

1. Council could choose to not make action at this time.

FINANCIAL INFORMATION

FISCAL IMPACT:

- | | |
|------------------------------|------------|
| 1. Is There A Fiscal Impact? | <u>Yes</u> |
| 2. Is it Currently Budgeted? | <u>N/A</u> |
| 3. If Budgeted, Which Line? | <u>N/A</u> |

PRIOR ACTION/REVIEW

On June 7, 2017 City Council adopted Resolution 2017-023 authorizing the City to annex properties to CFD 2017-01.

ATTACHED INFORMATION

1. Resolution No. 2019-048 certifying and adding the above properties to CFD No. 2017-01.
2. Map outlining the location of APN 394-021-42

Recording Requested by:)
)
City of Kingsburg)
)
and When Recorded, Mail to:)
)
City of Kingsburg)
1401 Draper Street)
Kingsburg, CA 93631)

(Exempt from Recording Fees – Govt Cod Sec. 27383)

RESOLUTION 2019-048

**AMENDMENT TO THE NOTICE OF SPECIAL TAX LIEN
(NOTICE OF ANNEXATION)**

ANNEXATION No. 2019-03

**CITY OF KINGSBURG
COMMUNITY FACILITIES DISTRICT No. 2017-01
(PUBLIC SERVICES DISTRICT)**

Pursuant to the requirements of Section 3117.5 of the Streets and Highways Code and Section 53339.8 of the Government Code, the undersigned City Clerk of the City of Kingsburg, acting for and on behalf of the legislative body of the CITY OF KINGSBURG, COMMUNITY FACILITIES DISTRICT NO. 2017-01 (Public Services District), COUNTY OF FRESNO, STATE OF CALIFORNIA, HEREBY GIVES NOTICE that a lien is hereby imposed to secure payment of a special tax which the City Council of the City of Kingsburg, County of Fresno, State of California, acting in its capacity as the legislative body of such Community Facilities District is authorized to annually levy for the following purpose:

To finance increased demand for public services resulting from new development within the District

The special tax is authorized to be levied on the property described in "Exhibit A" attached hereto (the "Annexed Property") which has been annexed to the District, which has now been officially formed, and the lien of the special tax is a continuing lien, which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied and cancelled in accordance with law or until the special tax ceases to be levied and an notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate and method of apportionment of the authorized special tax is as shown on the attached, referenced and incorporated Exhibit "B", and the special tax shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for ad valorem taxes; provided, however, as applicable, the legislative body of the District may, by resolution, establish and adopt an alternative or supplemental collection procedure as necessary.

Notice is further given that upon the recording of this notice in the office of the County Recorder, the obligation to pay the special tax levy shall become a lien upon the Annexed Property in accordance with Section 3115.5 of the Streets and Highways Code.

The names of the owners of the Annexed Property as they appear on the last secured assessment roll as of the date of recording of this Notice and Assessor's tax parcels numbers of all parcels or any portion thereof which are included within the Annexed Property are as set forth on the attached, referenced and incorporated Exhibit "C".

Reference is made to the following:

- A. Consent and Election to Annex Real Property to an Existing Community Facilities District.
- B. Community Facilities District Report- Rate and Method of Apportionment.
- C. Notice and Assessor's tax parcels numbers of all parcels & Deed of Trust showing ownership.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the following designated person:

City Manager Alexander Henderson
City of Kingsburg
1401 Draper Street
Kingsburg, CA 93631
(559) 897-5821

NOW THEREFORE, BE IT RESOLVED: That Resolution 2019-047 is approved.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Kingsburg duly called and held on the ____ day of September 2019, by the following vote:

AYES:	Council Member(s):
NOES:	Council Member(s):
ABSTAIN:	Council Member(s):
ABSENT:	Council Member(s):

Abigail Palsgaard, City Clerk

STATE OF CALIFORNIA)
COUNTY OF FRESNO)ss
CITY OF KINGSBURG)

I, Abigail Palsgaard, City Clerk of the City of Kingsburg, do hereby certify the foregoing Resolution was duly passed and adopted at a regular meeting of said City Council held on the ____ day of September 2019.

Dated:

Abigail Palsgaard, City Clerk

**CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING
COMMUNITY FACILITIES DISTRICT**

**CITY OF KINGSBURG
COMMUNITY FACILITIES DISTRICT NO. 2017-01
(PUBLIC SERVICES DISTRICT)**

**TO: CITY COUNCIL OF THE CITY OF KINGSBURG IN ITS CAPACITY AS THE
LEGISLATIVE BODY OF THE ABOVE ENTITLED COMMUNITY FACILITIES DISTRICT:**

1. The undersigned is the owner (the "Owner"), or the duly authorized representative of the Owner, of the real property as described in Exhibit A attached hereto and incorporated herein by reference (the "Property"), and in such capacity, possesses all legal authority necessary to execute this Consent and Election as and on behalf of the Owner in connection with the annexation of the Property to the District (as defined below).

The Owner is:
Kingsburg Housing, LLC

(APN 394-021-42)

2. The Owner is aware of and understands the following:

The City of Kingsburg has conducted proceedings pursuant to the "Mello-Roos Community Facilities Act of 1982", (Government Code Section 53311 and following) (the "Act") to form a community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 2017-01 (PUBLIC SERVICES DISTRICT) (the "District") to finance the increased demand for public services (the "Services") resulting from new development within the District. The services to be financed by the CFD comprise services ("Services") authorized to be financed pursuant to Section 53313 and 53313.5 of the Government Code. CFD 2017-01 shall finance Services only to the extent they are in addition to those provided in the territory of CFD 2017-01 before the CFD was created and such Services may not supplant services already available within CFD 2017-01 when the CFD was created.

For a full and complete description of the public services, reference is made to the final CFD Report, a copy of which is on file in the Office of the City Clerk. For all particulars, reference is made to said CFD Report.

The City has also undertaken proceedings pursuant to Article 3.5 of the Act to provide for the future annexation of certain territory, including the Property, to the District. On June 7, 2017, the City held a public hearing as required by the Act, to consider the future annexation of such territory, including the Property, to the District. Notice of such hearing was given in the form and manner as required by law. A protest to such future annexation was not received from 50% or more of the registered voters, or six (6) registered voters, whichever is more, residing in the territory proposed to be annexed in the

future or the owners of one-half or more of the area of land in the territory proposed to be annexed in the future. At the conclusion of such public hearing, the legislative body of the City did approve and provide for the annexation in the future upon the unanimous approval of the owner or owners of each parcel or parcels at the time that such parcel or parcels are annexed, without additional hearings.

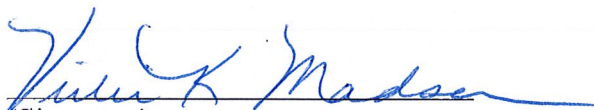
THE UNDERSIGNED DOES HEREBY CERTIFY UNDER PENALTY OF PERJURY AS FOLLOWS:

The Owner consents and elects to and expressly approves annexation of the Property to the District and the authorization for the levy of the Special Tax within the Property without further public hearing and without an election conducted pursuant to the provisions of Government Code Section 53339.7 and Article 2 of the Act and the Elections Code of the State of California. Owner agrees and intends that such consent and approval constitutes Owner's election to annex the Property to the District and to approve the authorization for the levy of the Special Tax within the Property.

The Owner waives any right, which the Owner may have to make any protest or complaint or undertake any legal action challenging the validity of the proceedings of the City or the District to authorize the future annexation of the Property to the District or the authorization for the levy of the Special Tax within the Property, any necessity, requirement, right or entitlement for further public hearing or election pertaining to the annexation of the Property to the District and the levy of the Special Tax within the Property.

The Owner specifically authorizes the levy of the Special Tax on the Property pursuant to the rate and method of apportionment set forth in Exhibit B to pay for the authorized Public Services.

EXECUTED this 27th day of September, 2019, ~~2018~~, in Fresno, California


(Signature)

By Val-Wide Development, Inc., Its Manager
By Vicki K Madsen, Secretary

Type or print name of signor

(Signature)

Type or print name of signor

Note:

1. Signatures of property owner(s) or representatives must be notarized.
2. Proof of Authorization to sign is required for Corporations, Partnerships, Limited Liability Companies, Trusts, etc.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

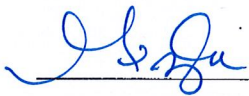
NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF FRESNO)

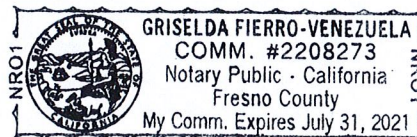
On 8/22/19, before me, Griselda Fierro-Venezuela, Notary Public, personally appeared Vicki K Madsen who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Notary Public



(This area for official notaries seal)

**AMENDED AND RESTATED OPERATING AGREEMENT
FOR
KINGSBURG HOUSING, LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
(FORMERLY BRAVO CANYON DEVELOPMENT, LLC)**

This Amended and Restated Operating Agreement ("Agreement") is made effective as of November 1, 2004, by Jeffrey S. Mayer, an individual, sole Member of the Company, in order to identify and provide for the operation of the business of the Company.

A. The Member has established a limited liability company ("Company") under the *Beverly-Killea Limited Liability Company Act*.

B. The Member desires to execute this Agreement in order to form and provide for the governance of the Company and the conduct of its business.

NOW, THEREFORE, the Member hereby declares and agrees as follows:

ARTICLE I: DEFINITIONS

The following capitalized terms used in this Agreement have the meanings specified in this Article or elsewhere in this Agreement, and when not so defined, shall have the meanings set forth in California *Corporations Code* § 17001.

1.1. "Act" means the *Beverly-Killea Limited Liability Company Act* (California *Corporations Code* §§ 17000-17655), including amendments from time to time.

1.2. "Agreement" means this Operating Agreement, as amended from time to time.

1.3. "Articles of Organization" is defined in California *Corporations Code* § 17001(b) as applied to the Company.

1.4. "Capital Account" means an account maintained and adjusted in accordance with Article III, Section 3.2. of this Agreement.

1.5. "Capital Contribution" means the amount of the money and the fair market value of any property other than money contributed to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take "subject to" under IRC § 752) in consideration of Member's Membership Interest in the Company.

1.6. "Code" or "IRC" means the *Internal Revenue Code of 1986*, as amended, and any successor provision.

1.7. "Manager" mean Val-Wide Development, a California corporation, or any other Person that succeeds the Manager named above in that capacity.

1.8. "Membership Interest" means the Member's rights in the Company, collectively.

1.9. "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

ARTICLE IV: ALLOCATIONS AND DISTRIBUTIONS

4.1. All Profits and Losses of the Company and all items of Company income, gain, loss, deduction, or credit shall be allocated to the Member.

4.2. Any unrealized appreciation or unrealized depreciation in the values of Company property distributed in kind to the Member shall be deemed to be Profits or Losses realized by the Company immediately prior to the distribution of the property, and such Profits or Losses shall be allocated to the Member's Capital Account. Any property so distributed shall be treated as a distribution to the Member to the extent of the fair market value of the property less the amount of any liability secured by and related to the property. Nothing in this Agreement is intended to treat or cause such distributions to be treated as sales for value. For the purposes of this Section 4.2, "unrealized appreciation" or "unrealized depreciation" shall mean the difference between the fair market value of such property and the Company's basis for such property.

4.3. In the case of a Transfer of the Member's Membership Interest during any fiscal year, the transferring Member and transferee shall each be allocated the Profits or Losses attributable to the Membership Interest based on the number of days each held the Membership Interest during that fiscal year.

4.4. All cash resulting from the normal business operations of the Company shall be distributed to the Member at such times as the Member deems appropriate.

ARTICLE V: MANAGEMENT

5.1 Management of the Company by Manager. The business, property and affairs of the Company shall be managed exclusively by the Manager. Manager may also act as the general contractor for the residential housing project to be developed by the Company or engage an affiliate to act as the general contractor. Except for situations in which the approval of the Member is expressly required by the Articles or this Agreement, the Manager shall have full, complete and exclusive authority, power, and discretion to manage and control the business, property and affairs of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business, property and affairs.

5.2 Removal and Election of Manager. The Company shall have one (1) Manager. The Manager shall hold office until a successor shall have been elected and qualified. The Manager may be removed and its successor appointed by the Member.

5.3 Powers of Manager. Without limiting the generality of Section 5.1, but subject to the express limitations set forth elsewhere in this Agreement as to matters requiring the approval or action of the Member, the Manager shall have all necessary powers to manage and carry out the purposes, business, property, and affairs of the Company, including, without limitation, the power to exercise on behalf and in the name of the Company all of the powers described in *Corporations Code* § 17003.

5.4 Members Have No Managerial Authority. The Member shall have no power to participate in the management of the Company except as expressly authorized by this Agreement or the Articles and except as expressly required by the Act. Unless expressly and duly authorized in writing to do so by the Manager, the Member shall not have any power or authority to bind or act on behalf of the Company in any way, to pledge its credit, or to render

- (a) To pay the expenses of liquidation;
- (b) To repay outstanding loans to the Member; and
- (c) To the Member.

ARTICLE IX: GENERAL PROVISIONS

9.1. This Agreement constitutes the whole and entire agreement with respect to governance of the Company and the conduct of its business.

9.2. This Agreement shall be construed and enforced in accordance with the laws of the State of California. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

9.3. Any article, section or paragraph titles and headings contained in this Agreement are inserted as a matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Agreement or any of its provisions.

9.4. This Agreement may be altered, amended, or repealed only by a writing signed by the Member.

9.5. Time is of the essence of every provision of this Agreement that specifies a time for performance.

9.6. This Agreement is made solely for the benefit of the Member's permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement.

9.7. The Member intends the Company to be a limited liability company under the Act.

IN WITNESS WHEREOF, the Member has executed this Agreement on the day and year first above written.

Jeffrey S. Mayer, sole member

By: 
Jeffrey S. Mayer

Approved and agreed.

Val-Wide Development, Inc., Manager

By: 
Jeffrey S. Mayer, President

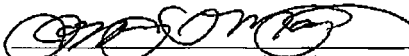
**ACTION OF BOARD OF DIRECTORS
OF
VAL-WIDE DEVELOPMENT, INC.
WITHOUT MEETING**

Pursuant to the Bylaws of this corporation, the undersigned, being the sole member of the Board of Directors of Val-Wide Development, Inc., a California corporation ("Corporation"), consents by this writing effective September 1, 2005, to adopt, approve and consent to the following resolutions:

Officer Authorizations.

RESOLVED, that any one officer of this Corporation, acting separately from any other officer, is authorized to execute, on behalf of the Corporation, any agreement or certification, including but not limited to subdivision maps, improvement plans, escrow instructions, and grant deeds, and to thereby bind the Corporation, and to bind any limited liability company that the Corporation serves as manager.

This authorization of the officers to act and bind the Corporation separately from any other officer shall not, however, apply to the execution of checks, drafts or other instrument for the payment of money endorsed on behalf of this Corporation




Jeffrey S. Mayer, Sole Director

CERTIFICATE OF SECRETARY

I, Vicki Gaston, Secretary of Val-Wide Development, Inc., a California corporation do hereby certify that the foregoing Action of Board of Directors of Val-Wide Development, Inc., is a full true and correct copy of the resolutions of the board of directors of said corporation, adopted by unanimous consent on the 1st day of September, 2005, and that the signatures appearing on the above-mentioned copy of said action are the genuine signatures of all of the members of the board of directors for said corporation. I further certify that said resolutions have not been amended or revoked and are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand as such on the 1st day of September, 2005



Vicki Gaston, Secretary



7451 North Remington Ave. #102
Fresno, CA 93711
(559) 440-9249 Fax: (559) 447-1643

PRELIMINARY REPORT

KINGSBURG HOUSING

, CA

Attention: Vicki Gaston

Fourth Amended Report
Subdivision File for Tract 6141

Our Order Number 1411000451A-LP

When Replying Please Contact:

Lisa Pendleton
(559) 440-9249

Property Address:

Kingsburg, CA

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY, as issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit I attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit I. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of August 13, 2019, at 8:00 AM

OLD REPUBLIC TITLE COMPANY

For Exceptions Shown or Referred to, See Attached

Page 1 of 4 Pages

OLD REPUBLIC TITLE COMPANY
ORDER NO. 1411000451A-LP
Fourth Amended Report
Subdivision File for Tract 6141

The form of policy of title insurance contemplated by this report is:

CLTA Standard Coverage Policy -1990. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Kingsburg Housing, LLC, a California limited liability company

The land referred to in this Report is situated in the County of Fresno, City of Kingsburg, State of California, and is described as follows:

Parcel 2 of Parcel Map No. 72, Recorded in Book 72 of Parcel Maps, at Pages 25 and 26, Fresno County Records.

APN: 394-021-42

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, for the fiscal year 2019 - 2020, a lien, but not yet due or payable.
2. Taxes and assessments, general and special, for the fiscal year 2018 - 2019, as follows:

Assessor's Parcel No	:	394-021-42	
1st Installment	:	\$3,780.92	Marked Paid
2nd Installment	:	\$3,780.92	Marked Paid
Land Value	:	\$660,081.00	
3. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.
4. Taxes and assessments, if any, of the Consolidated Irrigation District.



ANNEXATION MAP NO. 2019-03 OF
CITY OF KINGSBURG
COMMUNITY FACILITIES DISTRICT NO. 2017-01
(PUBLIC SERVICES DISTRICT)
COUNTY OF FRESNO
STATE OF CALIFORNIA

Reference is hereby made to that certain map entitled "Proposed Boundaries of City of Kingsburg Community Facilities District No. 2017-01 (Public Services District), County of Fresno, State of California," recorded on May 4, 2017, under Document No. 2017-0055084, in Book 44, Pages 91 and 92 of Maps of Assessment and Community Facilities Districts, in the office of the County Recorder of the County of Fresno, State of California, which this Annexation Map affects.

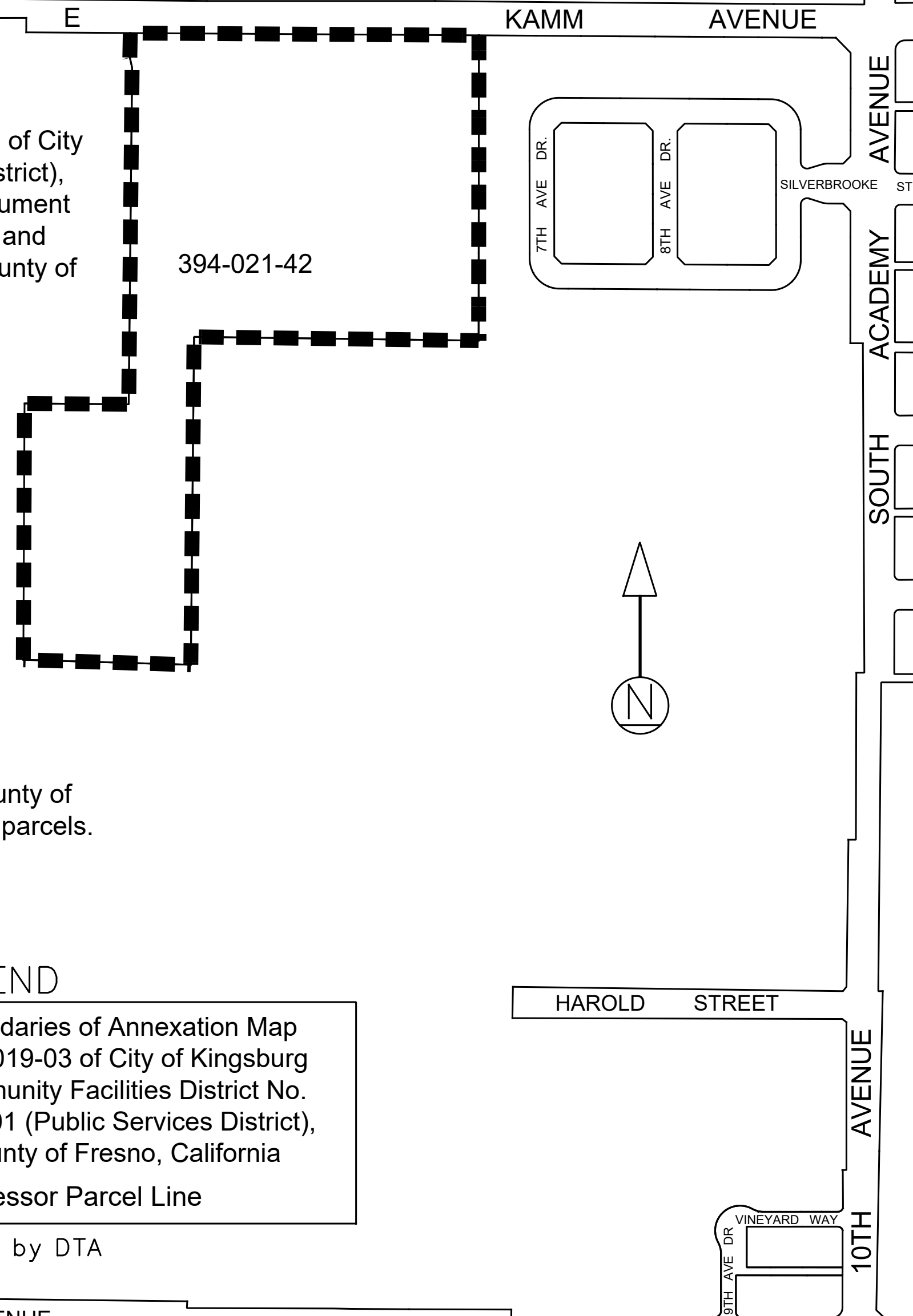
Assessor Parcels within the Boundary of
Annexation Map No. 2019-03 of City of
Kingsburg Community Facilities District No.
2017-01 (Public Services District):
394-021-42

Reference is hereby made to the Assessor maps of the County of
Fresno for a description of the lines and dimensions of these parcels.

LEGEND

	Boundaries of Annexation Map No. 2019-03 of City of Kingsburg Community Facilities District No. 2017-01 (Public Services District), County of Fresno, California
	Assessor Parcel Line

Prepared by DTA



(1) Filed in the office of the Clerk of the City of Kingsburg this
____ day of _____, 2019.

Abigail Palsgaard,
Clerk of the City of Kingsburg,
California



(2) I hereby certify that the within map showing the proposed
boundaries of Annexation Map No. 2019-03 of City of
Kingsburg Community Facilities District No. 2017-01 (Public
Services District), County of Fresno, State of California,
was approved by the City Council of the City of Kingsburg
at a regular meeting thereof, held on this _____ day of
_____, 2019, by its Resolution No. _____.

Abigail Palsgaard,
Clerk of the City of Kingsburg,
California



(3) Filed this ____ day of _____, 2019, at the hour of
____ o'clock __m, in Book _____ of Maps of
Assessment and Community Facilities Districts at Page
_____ and as Instrument No. _____ in
the office of the County Recorder in the County of Fresno,
State of California.

Paul Dictos, CPA
Assessor-Recorder, County of Fresno
By _____
Deputy
Fee _____

Exempt recording requested,
per CA Government Code §6103



Meeting Date: 09/18/2019
Agenda Item: 4.4

CITY COUNCIL MEETING STAFF REPORT

REPORT TO: Mayor Roman & City Council

REPORT FROM: Christina Windover, Administrative Services Director **REVIEWED BY:** AP

AGENDA ITEM: Wage Schedule

ACTION REQUESTED: ___Ordinance ___Resolution ☒ Motion ___Receive/File

EXECUTIVE SUMMARY

As required by City Ordinance, the Council is required to approve wage schedules. Attached is a revised wage schedule for the Reserve Firefighter/Paramedic, Reserve Firefighter/EMT and newly created Special Assignment Reserve position. The Special Assignment Reserve position will be at the Fire Chief's discretion based on the needs of the department. Using recruitment and job acceptance analysis for the Fire Department over the last 18 months, the wages for firefighters with advanced certifications such as a Paramedic License or Fire Marshall Investigator Certificate should be raised in order to recruit and retain qualified part-time Reserves in the Fire Department.

The proposed wage schedule increases the Reserve Firefighter Paramedic position pay to \$13-\$14 per hour depending on qualifications. Step C will be deleted on the Reserve Firefighter/Paramedic and EMT positions. A new Special Assignment Firefighter position will be added with a pay rate of \$20 per hour. The Reserve Special Assignment Firefighter position is only applicable to a certified Fire Marshall/Inspector and is a temporary assignment.

RECOMMENDED ACTION BY CITY COUNCIL

1. *Approve the proposed wage schedule.*

POLICY ALTERNATIVE(S)

1. Don't approve proposed wage schedule.

REASON FOR RECOMMENDATION/KEY METRIC

1. The Council has oversight on all wages associated with City positions. This is part of our financial stability initiative.

FINANCIAL INFORMATION

FISCAL IMPACT:

1. Is There A Fiscal Impact? Yes
2. Is it Currently Budgeted? Yes
3. If Budgeted, Which Line? Varies

PRIOR ACTION/REVIEW

Council approves wage schedules as amended.

BACKGROUND INFORMATION

The following are changes that are proposed to the current Reserve Firefighter as well as Legacy Reserve pay scales. The proposed changes come as a result of varied staffing needed within the department to better serve the citizens of Kingsburg. The reserve staffing that will be impacted as follows:

Firefighter/ Paramedic reserves with a Firefighter 1 completion would be paid \$13 an hour to start and progress to \$14 an hour rather than the currently \$12 an hour to start, progressing to \$14 an hour after completing one year of probation.

Additionally, Legacy Reserves special assigned by the Fire Chief, may be assigned roles within Administration as well as Fire Prevention. One Legacy Reserve would be assigned as front office staff with no more than 24 hours worked per week with a maximum of 960 hours per year. There would be a total of (1) assigned as administrative front office assistance paid the same rate as other legacy reserves, \$12 an hour to start and \$13 an hour with further certifications and completion of probation having the same minimum qualifications as other legacy reserves. These qualifications serve to allow them to be more adequately assigned by the department on Basic Life Support ambulance assignments and at public education events.

Legacy Reserves that have the appropriate certifications (Fire Inspector 1, 2 and or Fire Marshal /Plans examiner) would also be special assigned by the Fire Chief to serve in the capacity of Fire Prevention / Deputy Fire Marshal working no more than 24 hours per week and no more than 960 hours per year at the rate of \$20 per hour, with no further increase in pay.

Placing these individuals in these positions would allow the Fire Chief to assign persons to best meet the current and expected needs of the Fire Department.

Impact to Citizens: Increased Fire Safety and public access to Fire Stations.

Impact to budget: \$0 as budget for both fire prevention (offset by increased revenues from the BSAFE inspection program) as well as reserve employees was already accounted for in 2019/2020 budget.

ATTACHED INFORMATION

1. Proposed Wage Schedules for Firefighter Reserves.

CITY OF KINGSBURG SALARY CHART
EFFECTIVE JULY 1, 2019

POSITION -----	SALARY STEPS-PAID MONTHLY UNLESS NOTED				
	A -----	B -----	C -----	D -----	E -----
Building Department BUILDING OFFICIAL	4954	5202	5462	5735	6022
BUILDING INSPECTOR II/CODE ENFORCEMENT	3907	4102	4307	4523	4749
BUILDING INSPECTOR I/CODE ENFORCEMENT	3258	3421	3592	3772	3960
City Hall CITY MANAGER					13195
FINANCE DIRECTOR-TREASURER	7669	8053	8455	8878	9322
PLANNING DIRECTOR	7670	8054	8457	8879	9323
CITY CLERK	6370	6688	7022	7374	7742
DIRECTOR OF ADMINISTRATIVE SERVICES	6605	6935	7282	7646	8028
MANAGEMENT ASSISTANT	3604	3784	3974	4172	4381
COMMUNITY SERVICES DIRECTOR	5096	5351	5619	5900	6195
COUNCILMEMBER-MAYOR STIPEND					300
COUNCILMEMBER STIPEND					250
PART-TIME CITY HALL CLERK	12.19/HR				
Fire Department* FIRE CHIEF	7656	7921	8317	8733	9169
FIRE CAPTAIN/EMT REGULAR	4828	5069	5323	5589	5870
FIRE CAPTAIN/PARAMEDIC REGULAR	5178	5437	5709	5995	6291
FIREFIGHTER/PARAMEDIC REGULAR	4172	4379	4595	4831	5072
FIREFIGHTER/EMT REGULAR	3898	4093	4297	4510	4807
FIREFIGHTER/PARAMEDIC REGULAR MON-FRI	3125	3278	3444	3614	3851
PARAMEDIC REGULAR MON-FRI	3049	3202	3363	3531	3765
PARAMEDIC SHIFT SCHEDULE	4144	4351	4570	4799	5113
PCF (Hired before 01/01/2015)	12.50/HR				
RESERVE FIREFIGHTER/EMT	12/HR	13/HR	14/HR		
RESERVE FIREFIGHTER/PARAMEDIC	13/HR	14/HR			
RESERVE SPECIAL ASSIGNMENT	20/HR				
Police Department CHIEF OF POLICE	7996	8396	8816	9257	9719
POLICE LIEUTENANT	6579	6908	7254	7617	7997
POLICE SERGEANT	5822	6113	6419	6740	7077
POLICE SERGEANT (Hired 1/1/15 or after)	5707	5993	6292	6607	6937
PATROLMAN / OFFICER	4679	4913	5159	5417	5688
PATROLMAN/OFFICER (Hired 1/1/15 or after)	4588	4817	5058	5311	5577
RECORDS SUPERVISOR	3935	4132	4339	4555	4784
POLICE DEPT. ADMINISTRATIVE ASSISTANT	3814	4005	4205	4416	4636
POLICE SERVICES TECHNICIAN	3243	3405	3575	3754	3941
CONTRACT PUBLIC SAFETY DISPATCHER	18.00/HR				
POLICE RESERVE-LEVEL 1	20.00/HR				
POLICE SERGEANT	5822	6113	6419	6740	7077

POLICE SERGEANT (Hired 1/1/15 or after)	5707	5993	6292	6607	6937
PATROLMAN / OFFICER	4679	4913	5159	5417	5688
PATROLMAN/OFFICER (Hired 1/1/15 or after)	4588	4817	5058	5311	5577
RECORDS SUPERVISOR	3858	4051	4253	4466	4689
POLICE DEPT. ADMINISTRATIVE ASSISTANT	3814	4005	4205	4416	4636
POLICE SERVICES TECHNICIAN	3308	3473	3647	3829	4020
CONTRACT PUBLIC SAFETY DISPATCHER	18.00/HR				
POLICE RESERVE-LEVEL 1	20.00/HR				
POLICE RESERVE-LEVEL 2	15.00/HR				
COMMUNITY SERVICES OFFICER-PART TIME/BASED ON ASSIGNMENT	12.00/HR				
Public Works Department PUBLIC WORKS DIRECTOR	7354	7721	8107	8513	8938
ASSISTANT PUBLIC WORKS DIRECTOR	6129	6435	6757	7095	7449
PUBLIC WORKS SUPERINTENDENT	4829	5071	5324	5591	5870
MAINTENANCE WORKER I	2969	3117	3273	3437	3609
MAINTENANCE WORKER II/Mech/Pool	3103	3258	3421	3592	3772
MAINTENANCE WORKER III	3676	3860	4053	4256	4469
WATER OPERATOR I	3238	3400	3570	3748	3936
WATER OPERATOR II	3826	4017	4218	4429	4650
WATER OPERATOR III	4822	5063	5317	5582	5861
PART TIME PUBLIC WORKS CLERK	12/HR				
PART TIME METER READER	12.00/HR				
Senior Center SENIOR CITIZEN COORDINATOR	2505	2591	2721	2859	3000
NUTRITION COORDINATOR	13.00/HR				
Miscellaneous DEPARTMENT SECRETARY I	3056	3209	3369	3538	3715
DEPARTMENT SECRETARY I W/PLANNING COMMISSION MEETINGS	3209	3370	3538	3715	3901
DEPARTMENT SECRETARY II	3356	3523	3700	3885	4079
DEPARTMENT SECRETARY II W/PLANNING COMMISSION MEETINGS	3523	3699	3884	4078	4282
ADMINISTRATIVE ASSISTANT	2307	2422	2544	2671	2804
ACCOUNT CLERK I	2856	2999	3149	3306	3472
ACCOUNT CLERK II W/ACCOUNTS PAYABLE	3286	3450	3622	3803	3994
ACCOUNT CLERK II	3131	3288	3452	3625	3806
ACCOUNT CLERK III	3442	3614	3795	3984	4184
RECREATION SITE SUPERVISOR	13.25/HR				
RECREATION LEADER	12/HR	12.75/HR			
LIFEGUARD	12/HR				
LIFEGUARD/RETURN GUARD	12.75/HR				
LEAD GUARD	13/HR				
POOL CASHIER	12.00/HR				
POOL MANAGER	13.25/HR				
AQUA AEROBICS INSTRUCTOR	15.00/HR				
LEAD AQUA AEROBICS INSTRUCTOR	16.50/HR				



CITY OF KINGSBURG ENGINEERING PROGRESS REPORT September 12, 2019

CAPITAL IMPROVEMENT PROJECTS

I. Athwal Park Improvements

The project includes construction of playground, fitness court, skate-park, and associated improvements. Construction is ongoing and is expected to be completed in October 2019.

II. 2019 Street Maintenance Project

The project includes pavement rehabilitation on 12th Avenue, Washington Street, 16th Avenue and Union Street. The pavement work is complete and traffic striping work will be completed by Sept 20th.

III. Crandall Swim Complex

The project involves pool improvements including re-plastering, tile repairs, decking repairs, lighting upgrades, and associated improvements. Currently the project is in the design phase and construction is anticipated to begin in December 2019 and be completed in February 2020.

IV. 10th Avenue Pedestrian Improvements

The project includes construction of gap connection pedestrian walking paths on 10th Avenue between Stroud Avenue and Silverbrooke Street. Design and right of way phases are currently underway and construction is scheduled for winter 2019.

V. Madsen Avenue Bike Path Phase 2

The project involves extending the existing Madsen Ave trail from Stroud Avenue to Kamm Avenue. The environmental, design and right-of-way phases of the project are currently underway. Construction is scheduled for spring 2020.

VI. Marion Street Resurfacing

The project involves resurfacing Marion Street from Sierra Street to Lewis Street with a cape seal. The project is currently in the design phase and construction is anticipated to occur in spring 2020.

VII. Bethel / Sierra Roundabout

The project will construction a roundabout at the intersection of Bethel / Sierra. The project is in the early stages of preliminary design and right-of-way acquisition. Construction is anticipated in spring 2021.

VIII. Mehlert Street Reconstruction

The project will reconstruct Mehlert Street between 10th Street to east of 14th Street. The project is in the preliminary design phase of the project. Construction is anticipated in spring 2020.

IX. 18th Avenue Sidewalks

The project includes constructing sidewalks along the west side of 18th Avenue between Tulare Street and Stroud Avenue. The project is in the preliminary design phase of the project. Construction is anticipated in spring 2020.

X. TCP Water Treatment Plants

The project consists of constructing two new trichloropropane removal facilities at municipal water wells No. 12 and No. 13. The project will include piping, granular activated carbon vessel installations, chemical treatment facilities, facility infrastructure, and instrumentation and control equipment. The project design is complete and the City is currently soliciting bids for construction. The project will begin construction in November 2019 and be completed by August 2020.

PLANNING & DEVELOPMENT PROJECTS

XI. Development Projects

The City Engineer is performing engineering review and/or inspection of the following entitlement project as required:

- a) Hash Residential Development – Phase 1 is nearing completion and d the City Engineer is working with the developer for approvals of the Phase 2 improvement plans.
- b) Senior Housing Project – Fresno Housing Authority has received approval for a senior housing complex near the intersection of Sierra Street / Marion Street. The City Engineer is working with the developer

regarding on-site and off-site designs for infrastructure improvements.

- c) Washington School Improvements – Campus improvements are currently under construction to facilitate a new pre-K program. Improvements will include a new school parking lot near the Williams Street / Sierra Street intersection and repaving of Williams Street between Marion Street and Sierra Street.
- d) Tract 6122 – Construction of the subdivision is underway and is expected to be completed in December 2019.
- e) TTM 6151/6167 – The tentative tract maps for these project have been approved. There has been no activity from the developer related to the review and approval of final maps on these tracts.
- f) TTM 5073 – The map has been approved and the City Engineer is completing the improvement plans and final map reviews. Construction of the subdivision is expected to begin in fall of 2019.
- g) Adventist Health Complex – A new medical complex has been approved at the intersection of Sierra Street / Simpson Street. The City Engineer is working with the developer regarding on-site and off-site designs for infrastructure improvements.
- h) California / Ellis Office Complex – Construction is ongoing for the building and surrounding infrastructure and is expected to be complete in December 2019.
- i) K-Corporate Center (Phase 2) – The City Engineer is reviewing and processing a parcel map and improvement plans for a proposed 58,000 square foot industrial building on Simpson Street at Stroud Avenue.

GRANT APPLICATIONS

XII. Grant Program Applications

A call for projects for the next cycle of STBG & CMAQ funding is expected to be released in October 2019. The City Engineer will identify and prepare grant applications for various transportation related improvement projects within the City. The applications are expected to be due in December 2019.

OTHER PROJECTS

XIII. PG&E Rule 20A Undergrounding Projects

The City Engineer is coordinating the 10th Avenue (Draper Street to Roosevelt Street) undergrounding project within the City of Kingsburg.

XIV. Golden State Blvd Reconstruction

The project will reconstruct Golden State Boulevard within the entire limits of Kingsburg. The project design and construction phases are being led by the FCOG and Fresno County. Construction work is expected to begin in spring 2020 and be completed by winter 2022.

XV. ADA Transition Plan

The Federal Highway Administration requires that each agency receiving federal transportation funding complete an ADA transition plan. The plan identifies deficiencies in accessible transportation facilities within the City and develops a plan for facility improvements. The plan is 90% complete and will be presented to the Council for adoption in the fall of 2019.

XVI. Groundwater Sustainability Act

The City Engineer is continuing to serve as Secretary of the JPA and is involved in going efforts to develop a GSP.



Meeting Date: 09/18/2019
Agenda Item: 5.2

CITY COUNCIL MEETING STAFF REPORT

REPORT TO: Mayor Roman & City Council

REPORT FROM: Alexander J. Henderson, City Manager, ICMA-CM

REVIEWED BY: AP

AGENDA ITEM: Trolley Use Policy /Discussion

ACTION REQUESTED: ___Ordinance ___Resolution ✓Motion ___Receive/File

EXECUTIVE SUMMARY

This item is an extension of recent discussions regarding the purchase of a trolley for city use. Council provided direction on September 4 and asked for additional input from the City's Economic Development Committee, which met on Friday, Sept. 13.

We have provided rental policy language that includes the following:

1. Rental information
 - Minimum hours of use (minimum 2-hour rental); minimum amount of notice for rentals (30 days with deposit)
 - Rate per hour
 - Rental service area (50 mile radius)
 - Refundable deposit (for cancellations or unforeseen cleaning/damage)
 - Food and beverage allowed
 - Reduced rate for non-profits
 - Waiver/Indemnification of the city

Staff is seeking additional input by council. If no further changes are desired, staff would recommend approval of the rental policy as drafted.

RECOMMENDED ACTION BY CITY COUNCIL

1. Staff is seeking additional input by council. If no further changes are desired, staff would recommend approval of the rental policy as drafted.

POLICY ALTERNATIVE(S)

1. Could provide additional comments and ask staff to redraft for future consideration.

STRATEGIC GOAL:

1. Ensure Financial Stability
2. Increase Retail Opportunities

FINANCIAL INFORMATION

FISCAL IMPACT:

- | | |
|------------------------------|------------|
| 1. Is There A Fiscal Impact? | <u>Yes</u> |
| 2. Is it Currently Budgeted? | <u>No</u> |
| 3. If Budgeted, Which Line? | <u>N/A</u> |

PRIOR ACTION/REVIEW

The city council discussed the item during their August 7, 21 and September 4 regular meetings. The Economic Development Committee discussed color options during their August 16 and September 13 meeting. Council gave direction to move ahead with FCTRA purchase.

BACKGROUND INFORMATION

The Fresno County Rural Transit Agency (FCTRA) provides local and regional transit service to rural cities within Fresno County. FCTRA provides both scheduled, fixed route services with designated bus stops along specific routes, as well as reservation-based, demand responsive service that offers curb-to-curb transportation.

As part of their FY2019-2020 budget process, FCTRA approved the appropriation of \$300,000 for the purpose of purchasing a trolley for the City of Kingsburg. The idea for the trolley came from discussions between Mayor Roman and FCTRA General Manager Moses Stites while visiting the city's Historic Train Depot. FCTRA has identified a 2017 unit that could be acquired within 4-6 weeks (currently located in Indiana). The unit is on hold given there are other interested parties. Staff and FCTRA are seeking council direction to move forward with the purchase.

The 32', 27 passenger trolley would be owned by FCTRA, but operated by the city and could be utilized for different advertising and rental opportunities per the council's direction.

As such, there are several items that have been discussed, including:

1. Maintenance – FCTRA has indicated they will provide ongoing maintenance for the vehicle.
2. Driver Training – the City can designate drivers, who would then be trained by the FCTRA. Drivers will need a Class B license (Fees to be covered by FCTRA).
3. Insurance – the city will be responsible for insuring the vehicle and drivers. This can be accomplished through the city's existing carrier, or by reimbursing FCTRA if they carry the insurance. Staff would seek the lowest cost solution.
4. Fuel – the city will be responsible for fuel costs.
5. Colors – Council can provide direction on the colors they would like to see the unit painted. Costs for painting to be covered by FCTRA.

ATTACHED INFORMATION

1. Proposed Rental Policy
2. Example Policies



TROLLEY RESERVATION AGREEMENT

City of Kingsburg
1401 Draper Street., Kingsburg, CA 93631
Telephone: (559) 897-5821

Applicant Information

First Name: _____ Last Name: _____

Address: _____

City: _____ State: _____ ZIP _____

Home Phone: _____ Work #: _____ Cell #: _____

Driver's License #: _____ Email Address: _____

*Contact Person: _____ Cell #: _____

*If you are not the contact person for the day of the event, please list someone the driver can reach (particularly important if this is for your wedding).

* If Applicant is an organization or entity, the person ("Responsible Person") assuming responsibility for the performance of Applicant's obligations and responsibilities under this Agreement is as follows:

Name: _____ Address: _____ Cell

No. _____

Event Information

Requested Date: _____

Type of event: _____

Trip Starting Address: _____ City: _____

Trip Ending Address: _____ City: _____

Pick Up Time: _____ Ending Time: _____

Number of Passengers: _____

(Note: Charged start time for trips begin when the trolley leaves the corporation yard. (1200 Kern, Kingsburg, CA 93631). If you need the trolley for the beginning of your event – please indicate the start time of the event so we can ensure the trolley is there on-time.

Other Information: _____

RULES AND REGULATIONS FOR USE OF THE KINGSBURG TROLLEY

1401 Draper Street, Kingsburg, CA 93631
Phone: (559) 897-5821

1. All trips must remain within 50 miles of the Kingsburg Corporation Yard located at 1200 Kern, Kingsburg, CA 93631.
2. Private Party Rental fees are as follows:
 - Regular hourly fee is \$150.00 per hour for the first four hours. Minimum rental is 2 hours.
 - Rental fees for rentals of 5 hours or more will be billed at \$125 per hour.
 - All rentals include a provided licensed driver.
 - Security Deposit is \$300.00 (“security deposit”)
3. Non-Profit Rental fees are as follows:
 - ☐ Regular rate will be \$50.00 per hour for rentals.
 - ☐ All rentals include a provided licensed driver.
 - ☐ Security deposit is \$300.00.
4. All rentals are a minimum of two hours. A deposit (“deposit”) of two hours rental fee plus the security deposit of \$300.00 is due at time of booking. No dates are guaranteed without the deposit. The deposit and the security deposit are fully refundable up to 30- days prior to the event. Thereafter, the entire deposit is forfeited. Any portion of the security deposit not used by the City as provided in this Agreement will be refunded to the Applicant within thirty (30) days after date of use of the Trolley by the Applicant.
5. The balance of the rental fee (any additional hours beyond the two-hour minimum) is due 30 days prior to the event. Additional hours cannot be added on the day of the event. For rentals requested less than 30 days from the event, all fees are due at the time of booking the reservations.
6. Refunds are not given for unused time. Therefore, carefully consider the time you’ll need for your event.
7. Food and beverages are allowed in the trolley. Any ice-chests must be secured to the interior of the vehicle with bungee cords. All trash must be removed from the trolley at the end of the

rental and any spills wiped up immediately. The trolley must be left in the same condition as it was when the trip started. Applicant agrees the City may deduct from the security deposit any costs and expenses incurred by the City to clean and repair the Trolley after use by the Applicant.

8. Applicant agrees the City may deduct from the security deposit any costs and expenses incurred by the City for bio-hazard cleaning in the event of a bodily fluid spill (urine, vomit, blood, etc.)
9. Decorating the interior of the trolley may be done upon request with advance scheduling and the City's approval of the interior decorations. No exterior decorations are allowed.
10. In the event of a trolley breakdown, during the Trip period, which breakdown is not the result of any act or omission to act of Applicant or any passenger, a refund for the lost Trip time will be issued.
11. Passengers must comply with all safety instructions and regulations issued by the City and the trolley driver. All passengers must remain seated while the trolley is in motion.
12. If Applicant is hosting minor children, (under 18 years of age) Applicant must have an adequate number of adult chaperones and supervision. Adequate chaperones and supervision is considered to be not less than one adult per ten (10) minor children. Children must be under the supervision of a parent, guardian or chaperone at all times while on the trolley.
13. Applicant/Responsible Person agrees the City may deduct from the security deposit any costs and expenses incurred by the City as a result of any violation of any rule or regulation identified in this Agreement. Within thirty (30) days after the date of invoice, the Applicant/Responsible Person agrees to reimburse the City for any costs or expenses, in excess of the security deposit, incurred by the City as a result of any violation of any rule or regulation identified in this Agreement.
14. At least one (1) City business day prior to the Requested Date, Applicant must provide a certificate of general liability insurance acceptable to the City and naming the City of Kingsburg and its officials, officers, employees, volunteers and agents as additional insurers in an amount not less than \$1,000,000 per occurrence and covering any and all activities, actions or omissions of the Applicant and/or any passenger while riding on the trolley or participating in the Event.
15. Narcotics, tobacco products, vaping, and marijuana are not permitted on the trolley. No profane language, arguing, fighting or unruly behavior is permitted on the trolley.
16. Violation of any rule or regulation by Applicant/Responsible Party or any person or any passenger on the trolley or other person or entity in any way associated with or participating in the Event, as determined in the discretion of the trolley driver, shall be sufficient cause for immediate termination of the use of the trolley. If such violation shall occur, the trolley will be immediately returned to the City Corporation Yard.
17. The person signing this Agreement, represents and warrants that if the Applicant is an organization, group or entity, the person ("Responsible Person") signing this Agreement on behalf of the organization, group or entity has been given the power and authority to sign this Agreement on behalf of the organization, group or entity and to bind the organization, group or entity to the

terms and conditions of this Agreement. The Responsible Person signing this Agreement on behalf of the organization, group or entity is jointly and severally responsible and liable for the performance of all of the provisions of this Agreement and all the rules and regulations set forth in this Agreement.

18. The Applicant and if the Applicant is an organization, group or entity, the Responsible person signing this Agreement on behalf of the organization, group or entity shall indemnify, defend (with legal counsel acceptable to the City of Kingsburg) and hold harmless the City of Kingsburg and its officials, agents, employees and officers against any and all liability, losses, claims, damages, attorney fees, and other expenses, including, without limitation, sums paid or incurred in attempting to procure release from liability, which the City or its officials, agents, employees or officers may sustain or incur as a consequence of or in any way related to the use of the trolley by the Applicant and any passengers and all participants of the Event or arising out of any act or activity of the Applicant or any passenger or arising from the Event and/or the acts or omissions of any person or entity riding the trolley or participating in the Event.

19. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the matters set forth herein and contains all of the covenants and agreements between the parties regarding such matter.

20. If an action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other reasonable relief to which he may be entitled. With respect to any suit, action or proceeding arising out of or related to this Agreement, the parties hereby submit to the jurisdiction and venue of the Superior in the County of Fresno, State of California for any proceeding arising hereunder.

21. No change, amendment or modification of this Agreement shall be valid unless the same be in writing and signed by the parties hereto.

22. This Agreement shall be construed and governed pursuant to the laws of the State of California.

The undersigned certifies that all the information provided by the Applicant or Responsible Person and identified in this Agreement is true and correct.

Important – Road Conditions

The Kingsburg trolley is the size of the public transit bus. Certain road conditions can affect the safety and navigability of the trolley and may render the trolley unusable for your event. If you have concerns about the road(s) and/or location of your event, please consult with us before you book your reservation and pay your deposit. We can evaluate the roads and location to assess any hazards, thereby giving you time to find an alternative if we cannot book your trip.

Situations which may render roads impassable may include (but are not limited to):

- ☐ Low-hanging tree branches and closely set trees.
- ☐ Uneven ground, unpaved roads (dirt, gravel, etc.), steep inclines/declines, and narrow roads.
- ☐ Shortened turning radius (the drivers are not allowed to travel in reverse for safety

reasons).

☐ By checking this box, you agree to the following:

- ☐ The roads are public property and to your knowledge, passable by most vehicles. or
- ☐ The Applicant requests The City of Kingsburg evaluate the road(s) and location to assess any hazards.

Please read and sign:

The undersigned, Applicant and the Responsible Person duly authorized to execute this Agreement on behalf of the Applicant (if an organization, group or entity) agrees to comply with all rules, regulations and policies of the City of Kingsburg, governing the use of the trolley. It is understood that failure to comply with all rules and regulations will result in obligations to the Applicant and Responsible Party, including, without limitation: (i) repair costs for damages to the trolley, its contents and/or surrounding areas; (ii) forfeiture of deposit; (iii) additional charges for cleaning; and (iv) denial of future use of the City of Kingsburg Trolley.

The undersigned has read understands and agrees that the Applicant and the Responsible Person and all passengers of the trolley will fully comply with all rules and regulations and policies of the City of Kingsburg regarding the rental and use of the Kingsburg Trolley.

Name of Individual or Organization and Responsible Person

Authorized Signature

Date: _____



Subject: TROLLEY RENTAL POLICY & STANDARD OPERATING PROCEDURES

Effective: March 15, 2019

1. PURPOSE

The City owns and operates trolleys for the purpose of serving the public transportation need throughout the City. Individuals and/or parties may rent these trolleys for private use, in which case this policy and standard operating procedure (SOP) will govern.

2. POLICY

- a. This policy and standard operating procedure is in addition to the requirements of all applicable State and Federal Laws.
 - i. By renting the trolley the renter agrees to comply with all local, state and federal safety laws (such as OSHA), as well as the safety rules and regulations listed herein.
- b. The City may rent their trolleys to private individuals and/or parties when and if all of the following conditions are met:
 - i. City trolleys are available and are not in use to serve a public transportation need;
 - ii. City trolleys are in good working order as well as safe operating condition;
 - iii. The weather and roadways are deemed safe for driving by a City representative;
 - iv. A qualified and licensed City provided driver is available and present at the time of rental;
 - v. A signed rental agreement has been received and approved by a City representative;
 - vi. Full payment has been received by a City representative.

3. PROCEDURES

- a. Reservations
 - i. The City will rent its trolleys on a first come, first serve basis.
 - ii. Reservations, must be made a minimum of 2 weeks in advance of the rental date.
- b. Payment
 - i. Fee Structure
 1. The trolley is rented on a flat and all-inclusive \$150 per hour rate basis.
 - a. A two hour minimum rental is required.
 - b. Fee is due at the time of reservation.
 - ii. Deposit
 1. A deposit fee that is equal to your rental fee is due before boarding.
 2. The deposit fee will be held for damages or rental overages. The deposit fee will be returned at the end of the rental if there are no overages or damage.
 - iii. Rental Period
 1. Exceeding Rental Period
 - a. All time exceeding the agreed rental timeframe will be charged on an hourly basis at 1.5 the agreed upon hourly rate.
 - i. Circumstances due to nature, mechanical failure, or driver error that cause the rental to extend beyond the agreed rental period timeframe will not be charged to the rental party.

- ii. Deposit fee will be used for payment.
 - iv. Damage
 - 1. The renting party will pay for any and all damage that is a result of their party's actions.
 - a. Deposit fee will be used for payment. Should the charges be more than the deposit, the renter will be invoiced with payment expected ASAP.
- c. Cancellations
 - i. The City reserves the right to cancel any reservation at any time if inclement weather or unsafe equipment conditions exist.
 - ii. General Refunds:
 - 1. A minimum of 2 week notice of cancellation is required from the renter in order for the fee to be refunded.
 - a. A reservation cancellation must be made in writing (email is okay) to the City representative.
 - iii. Inclement Weather
 - 1. If the weather and/or roadway are deemed unsafe for operation by a City representative prior to the reserved time, the reservation will be cancelled and deposit refunded.
 - 2. If the weather and/or roadway become unsafe during operation, as deemed by a City representative, the rental will end, all passengers will be transported to safety, and all unused time will be refunded.
 - iv. Equipment Failure
 - 1. In the event the trolley is unable to operate in a safe manner as mentioned in 2,b,ii a refund will be issued.
 - a. A refund of the deposit will be issued if equipment failure occurs prior to the reservation time.
 - b. If the failure occurs during the rental, the rental will end, all passengers will be transported to safety, and a full refund will be provided.
 - i. If a backup trolley is available and provided no refund will be issued
 - 1. The transition time between trolleys will not be charged to the renting party and additional time of the rental will be considered.
 - v. Driver No-Show
 - 1. In the event the driver does not show up and the rental is not able to begin, a full refund will be issued.
 - 2. Unless otherwise provided for in this policy, if at any time the driver leaves the renters stranded and is unable to be contacted to arrange for pick up, a full refund will be issued.
 - vi. Renter ending reservation early
 - 1. Unless otherwise provided for in this policy, no refunds will be issued for unused rental time.

4. LIMITATIONS / APPROVALS / RESPONSIBILITIES / ETC

- a. Responsibilities
 - i. Renter
 - 1. General
 - a. The renter shall find the premises to be in a clean, safe condition and hereby agree to leave said premises and surrounding areas in a clean, safe condition.
 - 2. Damage
 - a. The Lessee is hereby deemed responsible for any damage or breakage to any portion of the trolley and agrees to replace in full, any damage done to the trolley while under rental.
 - ii. City Provided Driver
 - 1. Required to be present and remain with the trolley at all times for the duration of the rental.
 - 2. Required to hold a current and valid CDL.
 - 3. Prohibited from engaging in fraternization with the renting party
 - a. Use of alcohol, tobacco (including smokeless & vaping), illegal drugs, and prescription medicine that expressly prohibits driving or operating heavy machinery, is prohibited.

4. Prohibited from assisting with set up, lifting, pouring, serving, or any other activity un-related to loading passengers and operation of the trolley.
 - a. If there are special passenger loading and unloading requirements, they must be communicated at the time of reservation to the City representative.
- b. Limitations
 - i. Service area and mileage limitations
 1. The trolley will be limited to operation within a 25 mile radius from the City Municipal Building located at 100 Georgia Ave, North Augusta, SC 29841.
 2. The driver and/or city representative will determine the best and safest route that is taken between destinations.
 - ii. Overnight rentals are prohibited
 - iii. Alcohol use, tobacco use (including smokeless & vaping), and the use of illegal drugs is prohibited.
 - iv. Entertainment
 1. Use of exotic dancers is prohibited by City Ordinance Code: Article VII, Sec. 16-160, Sec. 16-164, 16-165.
 - v. Release of liability
 1. The Lessee agrees to hold harmless the City of North Augusta in any way for any accident or injury, which may occur to a person or persons on the premises during the rental period.
 2. The lessee agrees to hold harmless the City of North Augusta, for any items left unattended, misplaced, or unclaimed during or after the lessees' rental period.
 - vi. Trolley capacity
 1. The number of trolley passengers will limited in quantity to the lessor of either the approved maximum occupancy as posted in each trolley or the safest capacity deemed by the City representative.
 - a. Red Trolley = 25 seated 4 standing & 2 wheelchairs.
 - b. Green Trolley = 27 seated 7 standing
 - vii. Age requirements
 1. An adult (age 18 or older) must be present from the renting party at all times, during the use of the trolley.
 - viii. Decorations
 1. Use and type of decorations must be approved by the City representative.
 - a. Even approved decorations are subject to the damage provisions of this policy (4,a,l,3,a).

5. APPLICABILITY

This policy applies to all use of City trolleys by outside parties regardless of rental payment rates.

6. DEFINITIONS

- a. City Representative – A City employee that is responsible for the oversight of the trolley and/or the rental process.
- b. Public Transportation Need – A City sponsored event, parade, or as approved by the City Administrator.

CITY OF NORTH AUGUSTA TROLLEY AGREEMENT

It is hereby agreed between the City of North Augusta and _____ that
Renter's Name

The City of North Augusta's Trolley(s) will be reserved on _____.
Date

Rental Times: _____ Rental Fee: _____
Minimum of 2 hours \$150 per hour

A Deposit of _____ is due at time of reservation. *Deposit is equal to rental fee. Deposit will be returned the following weekday once rental has been inspected.*

Renter's signature will accept the policies and procedures as stated above.

RENTER'S NAME PRINTED

SIGNATURE

DATE

PHONE NUMBER (S)

CITY EMPLOYEE

DEPOSIT RETURNED
SIGNATURE & DATE



TROLLEY / BUS RESERVATION

Clovis Transit
155 N. Sunnyside Ave., Clovis, CA 93611
Telephone: (559) 324-2770

Personal Information

First Name: _____ Last Name: _____

Address: _____

City: _____ State: _____ ZIP _____

Home Phone: _____ Work #: _____ Cell #: _____

Driver's License #: _____ Email Address: _____

*Contact Person: _____ Cell #: _____

*If you are not the contact person for the day of the event, please list someone the driver can reach (particularly important if this is for your wedding).

Event Information

Requested Date: _____

Type of event: _____

Trip Starting Address: _____ City: _____

Trip Ending Address: _____ City: _____

Pick Up Time: _____ Ending Time: _____

(Note: Charged start time for trips beginning in Clovis is at the Trip Starting Address. Charged start time for trips outside of the Clovis City Limits is at the City Yard (155 N. Sunnyside Ave.).

Other Information: _____

RULES AND REGULATIONS FOR USE OF CLOVIS TRANSIT VEHICLES

155 N. Sunnyside Ave., Clovis, CA 93611

Phone: (559) 324-2770

1. All trips must remain within 50 miles of the Clovis Transit Corporation Yard located at 155 N. Sunnyside Ave., Clovis.
2. Rental fees are as follows:
 - Regular hourly fee is \$125.00 per hour or any fraction thereof and includes a licensed driver.
 - Rentals on City holidays are \$140.00 per hour.
 - After the initial two hours, consecutive waiting hours are \$50.00 per hour wait time (driver waiting, bus not in motion).
 - After the initial four hours at full-price, a reduced rate of \$75.00 is in effect.
3. All rentals are a minimum of two hours. A deposit of two hours rental fee is due at time of booking. No dates are guaranteed without the deposit. Deposit is fully refundable up to 30-days prior to the event. Within 30-days, the entire deposit is forfeited.
4. The balance of the rental fee (any additional hours beyond the two hour minimum) is due 30 days prior to the event. Additional hours cannot be added on the day of the event. For rentals requested less than 30 days from the event, all fees are due at the time of booking the reservations.
5. Refunds are not given for unused time. Therefore, carefully consider the time you'll need for your event.
6. NO ALCOHOL or SMOKING on the transit vehicle.
6. Food and non-alcoholic beverages are allowed in the vehicle but all trash must be removed from the vehicle at the end of the rental and any spills wiped up immediately. Basically, the vehicle should be left in the same condition as it was when the trip started. A cleaning fee of \$50.00 may be charged if the vehicle requires additional cleaning.
7. Any ice-chests must be secured to the interior of the vehicle with bungee cords.
8. A \$100.00 fee is charged for bio-hazard cleaning in the event of a bodily fluid spill (urine, vomit, blood, etc.)
9. Decorating the interior of the vehicle may be done upon request with advance scheduling. No exterior decorations are allowed.
10. In the event of a trolley vehicle breakdown, a regular public transit bus may be substituted.
11. Passengers must comply with all safety instructions and regulations placed forth by the bus driver. All passengers must remain seated while the vehicle is in motion.

Important – Road Conditions

Clovis Transit trolleys are vehicles the size of the public transit buses. Certain road conditions can affect the safety and navigability of the trolleys and may render the vehicles unusable for your event. If you have concerns about the road(s) and/or location of your event, please consult with us before you book your reservation and pay your deposit. We can evaluate the roads and location to assess any hazards, thereby giving you time to find an alternative if we cannot book your trip.

Situations which may render roads impassable may include (but are not limited to):

- Low-hanging tree branches and closely set trees.
- Uneven ground, unpaved roads (dirt, gravel, etc.), steep inclines/declines, and narrow roads.
- Shortened turning radius (the drivers are not allowed to travel in reverse for safety reasons).

☐ By checking this box, you agree to the following:

- The roads are public property and to your knowledge, passable by most vehicles.
- or
- The renter would like Clovis Transit to evaluate the road(s) and location to assess any hazards.

Please read and sign:

The undersigned, acting as an agent for the above named individual, group or organization, hereby agrees as user to comply with all rules, regulations and policies of the City of Clovis, governing the use of said trolleys or transit vehicles. It is understood that failure to comply may result in one or more of the following: Repair costs for damages to the vehicle, its contents and/or surrounding areas; forfeiture of deposit; additional charges for cleaning; denial of future use of any City of Clovis vehicles.

The undersigned has read and understands the rules and regulations associated with rental of Clovis Transit trolleys and agree to abide by said rules. **NO ALCOHOLIC BEVERAGES ALLOWED ON THE TROLLEY OR TRANSIT VEHICLE.**

Signature of Responsible Party: _____ **Date:** _____

2018

Dodge City Convention and Visitors Bureau Trolley Policy

The Trolley

- The Trolley seats 24 passengers.
- The Trolley is air conditioned and heated.
- The Trolley is wheelchair accessible.
- The Trolley has wood bench seating, with a large seating area in the back.
- The Trolley is enclosed with windows. Windows do not open.

Historic Trolley Tours

Memorial Day to Labor Day during regular business hours

- The Historic Tour is a one hour recorded narrated tour.
- Group Rates available for groups of 10 or more at a discounted price, based on availability.

Trolley Rentals

Use Rates and Policies Rental Rates, Based on availability, within fifteen (15) miles of Dodge City limits. No alcohol, tobacco products or illegal substances will be permitted on the trolley.

Private Historical Tours and Shuttle Transportation

Passengers to and from one location to another or a continuous loop with multiple stops.

- \$100.00 for a 1 Hour Rental [minimum]
- \$175.00 for a 2 Hour Rental
- \$75.00 for each additional hour
- \$100.00 non-refundable deposit is required. [applied toward rental fee.]
- "Step on Guide" service [live narrations and story tellers] when available. Fee to be determined by guide.

*** Please note hourly rate includes driver, fuel, cleaning.**

Special Notes Regarding Trolley Rental

- There is only one trolley available for rentals.
- If The Trolley breaks down before the event, and no backup rental is available, no fee will be charged. Any deposit will be refunded.
- If breakdown occurs during rental of event, and no backup is available, the renter will be responsible for alternate transportation, no rental fee will be charged and any deposit or rental fee paid will be returned.
- *Any trolley usage is contingent on **availability and weather***

Conditions of Operation

- The Trolley shall only be operated on paved roads (no dirt or gravel roads).
- The Trolley shall not operate outside the city limits.

"*It is understood and agreed that the City of Dodge City will not be liable for any expenses, claims and/or damages that may result from mechanical failure of the trolley that prevents its use in the above-stated event. It is understood that no alternative vehicle is available to substitute for the trolley should mechanical failure prevent its use for the above-stated event."

- The renter shall be held responsible for any damages to the trolley resulting from the rental that is not due to normal use.
- Any abusive or disruptive behavior(s) by trolley occupants will not be tolerated, and may result in immediate termination of trolley use, at the trolley driver's discretion. Any fees paid will not be refunded under these circumstances.
- All fees are based on availability.

Non Profit Special Considerations Fees

- Contact CVB for non-profit rates.

******Not for internet publication******

Group Rates available for groups of 10 or more at a discounted price.

- Group Discounts will be \$1.00 per child and \$2.00 per adult off the regular ticket prices of the Historic Trolley tours that operate during regular business hours, Memorial Day through Labor Day.

Non Profit Special Considerations- based on availability

- Any organization that carries a 501C-3 that operates within Dodge City, who desires to rent the trolley for a special fund raising event, may do so at a reduced rate of one half the normal rental rates, contingent on availability.
-

Availability for Events in Dodge City

- The Trolley will aid area attractions with events, parades and other special happenings, at no charge. One per attraction, per year, based on availability, first come, first serve. As approved by the CVB Director and or the City Manager.
- The Trolley will be used to make the event stronger, and add to the events overall appeal.

Group and/or Convention Rates

- The trolley may be reserved for groups or convention shuttle services. (See above rate schedule.)
- A Sponsorship agreement may be negotiated between group/convention planner and the Dodge City Convention & Visitors Bureau.

Government, City of Dodge City, or Ford County Trolley Consideration

- The Trolley can be used to enhance visits of public officials, dignitaries, celebrities, and other special visitors to the City of Dodge City at no charge, as available, based on approval of the CVB director.

Special Notes

- There is only one Trolley available for private rental.
- The Trolley rental is based on first come, first served availability.

"*It is understood and agreed that the City of Dodge City will not be liable for any expenses, claims and/or damages that may result from mechanical failure of the trolley that prevents its use in the above-stated event. It is understood that no alternative vehicle is available to substitute for the trolley should mechanical failure prevent its use for the above-stated event."

- If The Trolley breaks down before the event, backup may not be available,
- If breakdown occurs during event, backup may not be available; the event planner will be responsible for alternate transportation.
- The CVB shall provide trolley driver and necessary fuel for event.

"*It is understood and agreed that the City of Dodge City will not be liable for any expenses, claims and/or damages that may result from mechanical failure of the trolley that prevents its use in the above-stated event. It is understood that no alternative vehicle is available to substitute for the trolley should mechanical failure prevent its use for the above-stated event."



Meeting Date: 09/18/2019
Agenda Item: 5.3

CITY COUNCIL MEETING STAFF REPORT

REPORT TO: Mayor Roman & City Council

REPORT FROM: Alexander J. Henderson, City Manager, ICMA-CM

REVIEWED BY: AP

AGENDA ITEM: Creation of a Downtown Business Improvement District

ACTION REQUESTED: ☐ Ordinance ☐ Resolution ☒ Motion ☐ Receive/File

EXECUTIVE SUMMARY

In April 2017, a Community Planning Assistant Team (CPAT), a chapter of the American Planning Association (APA), made up of planning and economic development professionals from throughout the state came to Kingsburg for 3 days to provide pro bono expertise to Downtown Kingsburg. The group met with downtown merchants, city staff, and the City Council to determine issues affecting the downtown. In June 2017, the group submitted a Revitalization Strategy for Downtown Kingsburg. One of the recommendations from that strategy was to consider establishing a Business Improvement District (BID) and Downtown Business Association (DBA).

The City subsequently hired Mike Dozier (member of the CPAT team) to provide consulting services to meet with property owners and business to educate and hear concerns about forming a new association and improvement area. A group of property owners/businesses visited Visalia and Clovis to hear about how those groups organized and benefited from a DBA and BID. After numerous meetings, staff received a request to have the issue placed on the agenda for presentation by a merchant's group. The merchant's group presented to the council in 2018 regarding the creation of a downtown improvement area. The council indicated support for the proposal.

In early 2019, the council and chamber of commerce agreed to amend their ongoing contract. One of the provisions of the contract is to support the development of a downtown improvement area and subsequent association.

As the downtown has continue its revitalization, the city often receives requests related to services and improvements that would benefit downtown businesses. The creation of a BID will allow the city to collect assessments from businesses within the BID to provide revenue to be used to pay the costs of services and improvements which will benefit the businesses in the BID.

Staff recommends a consultant be retained by the City to prepare a management district plan which will describe the BID programs, address issues related to operation of the BID, identify the services and improvements to be provided by the BID and the benefits each business receives from the services and improvements and identify the method for calculating the assessments to be collected through the business license process.

Establishment of a BID under the Parking and Business Improvement Area Law of 1989 ("89 Law") requires the following steps:

1. The city council adopts a "resolution of intention" setting forth the details of the BID program, a date and time for a public hearing, and other information required by statute.

2. Within seven days of adopting the resolution of intention, a complete copy of that resolution must be mailed to each business owner in the territory of the proposed BID.
3. The city must mail to each business a “joint notice of public meeting and public hearing.” This “joint notice” is typically mailed along with the copy of the resolution of intention.
4. No earlier than ten days after mailing the “joint notice,” the city council must hold “at least one public meeting at which the city council shall allow public testimony regarding the creation of the BID and proposed new assessment.
5. No earlier than forty-five days after mailing the joint notice, and no earlier than seven days after the public meeting, the city council must hold a public hearing.
6. At the public hearing, the city council must consider oral and written protests to the creation of the BID. If written protests meeting the requirements of Section 36524 of the Streets & Highways Code are received (and not withdrawn) from “the owners of businesses in the proposed area which will pay 50 percent or more of the assessments proposed to be levied”, then proceedings must be abandoned for no less than one year. Otherwise, the city council may (but is not required to) adopt an ordinance establishing the BID.

Staff has included a proposed map of the District, as well as a draft Resolution of Intention that outlines certain specifics of the BID. .

RECOMMENDED ACTION BY CITY COUNCIL

1. Provide direction and authorize staff to move forward with retaining a consultant to assist in implementing the creation of the BID.

POLICY ALTERNATIVE(S)

1. N/A

STRATEGIC GOAL(S) MET:

1. Sustainable Economic Development
2. Increase Retail Opportunities

FINANCIAL INFORMATION

FISCAL IMPACT:

- | | |
|------------------------------|------------|
| 1. Is There A Fiscal Impact? | <u>N/A</u> |
| 2. Is it Currently Budgeted? | <u>N/A</u> |
| 3. If Budgeted, Which Line? | <u>N/A</u> |

PRIOR ACTION/REVIEW

The council has continued to support recommendations related to the original CPAT report and has heard from local business owners as well.

BACKGROUND INFORMATION

In April 2017, a Community Planning Assistant Team (CPAT), a chapter of the American Planning Association (APA), made up of planning and economic development professionals from throughout the state came to Kingsburg for 3 days to provide pro bono expertise to Downtown Kingsburg. The group met with downtown merchants, city staff, and the City Council to determine issues affecting the downtown. In June 2017, the group submitted a Revitalization Strategy for Downtown Kingsburg. One of the recommendations from that strategy was to consider establishing a Business Improvement Area (BID) and Downtown Business Association (DBA).

The City subsequently hired Mike Dozier (member of the CPAT team) to provide consulting services to meet with property owners and business to educate and hear concerns about forming a new association. A group of property owners/businesses went to Visalia and Clovis to hear about how they organized and benefited from a DBA and

BID.

ATTACHED INFORMATION

1. Proposed Resolution of Intention to Form the District
2. Map of Proposed Area
3. M Mandell Business Improvement District White Paper

RESOLUTION NO.2019-____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KINGSBURG
DECLARING ITS INTENTION TO ESTABLISH THE KINGSBURG
DOWNTOWN BUSINESS IMPROVEMENT DISTRICT PURSUANT TO
THE PARKING AND BUSINESS IMPROVEMENT AREA LAW OF 1989**

WHEREAS, the Council of the City of Kingsburg ("City Council") desires to form a parking and business improvement area to be known as the "Kingsburg Downtown Business Improvement District" pursuant to the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code Section 36500 et seq.) in accordance with the requests of the many businesses in downtown Kingsburg.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Kingsburg, as follows:

1. The City Council hereby declares its intention to form a parking and business improvement area to be known as the "Kingsburg Downtown Business Improvement District" (the "District") pursuant to the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code section 36500 et seq.).

2. The area to be included in the District shall be that portion of the Central Commercial Zone District area within the following streets and address ranges:

STREET NAME	RANGE OF ADDRESSES
-------------	--------------------

A map depicting the District is attached hereto as Exhibit A and incorporated herein and by this reference made a part hereof.

3. The purpose of forming the District as a parking and business improvement area under the Parking and Business and Improvement Area Law of 1989 is to provide revenue to defray the costs of services

and improvements which will benefit businesses in the District. Examples of services and improvements to be provided are listed in Exhibit B, which is attached hereto and by this reference made a part hereof. The services and improvements listed on Exhibit “B” are the services and improvements to which the revenue generated by the assessments to be levied will be applied.

4. All businesses operating in the District will be assessed a share of the costs of the aforementioned services and improvements based upon and according to the type of business and the benefit to be received by the business as determined by the following:

(Per a Management District Plan prepared by the Consultant)

5. The assessment to be imposed upon the District businesses is based upon the type of business and the benefit received by each business are as follows:

(Per a Management District Plan prepared by the Consultant)

6. The above described assessment is an annual charge and shall be levied, collected, and enforced in the same manner, at the same time, and with the same penalties and interest as a business license.

7. The total assessment collected from any business under the provisions of the ordinance creating the District shall not exceed _____ (\$_____) per annum.

8. Pursuant to Section 54954.5 of the California Government Code, notice is hereby given, that _____ 2019, at the hour of 6:00 p.m., in the City Council Chambers, 1401 Draper Street, Kingsburg, California, is fixed as the time and place when the City Council shall conduct a public meeting where any and all persons having any desire to be heard may appear and state their views for or against the formation of the District, the levy of assessments and any other issues related to the District.

9. Pursuant to Section 54954.5 of the California Government Code, notice is hereby given, that _____, 2019 at the hour of 6:00 p.m., in the City Council Chambers, 1401 Draper Street, Kingsburg, California, is fixed as the time and place when the City Council shall conduct a public hearing where any and all persons having any desire to be heard may appear and state their views for or against the formation of the District, the levy of assessments and any other issues related to the District.

10. The City Clerk is hereby directed to give notice of the above-mentioned meeting and public hearing by both publication and mailing pursuant to Section 54954.5 of the California Government Code. This resolution shall become effective immediately upon its passage and adoption.

I, Abigail Palsgaard, City Clerk of the City of Kingsburg, do hereby certify that the foregoing resolution was duly passed and adopted at a regular meeting of the Kingsburg City Council held on the ____ day of _____ 2019, by the following vote:

Ayes: Council Member(s):

Noes: Council Member(s):

Absent: Council Member(s):

Abstain: Council Member(s):

DRAFT

Abigail Palsgaard, City Clerk





Business Improvement Districts: Potential for Public/Private Conflicts

Friday, September 15, 2017 General Session; 8:00 – 10:00 a.m.

Mark E. Mandell, Mandell Municipal Consulting

DISCLAIMER: *These materials are not offered as or intended to be legal advice. Readers should seek the advice of an attorney when confronted with legal issues. Attorneys should perform an independent evaluation of the issues raised in these materials.*

Copyright © 2017, League of California Cities®. All rights reserved.

This paper, or parts thereof, may not be reproduced in any form without express written permission from the League of California Cities®. For further information, contact the League of California Cities® at 1400 K Street, 4th Floor, Sacramento, CA 95814. Telephone: (916) 658-8200.

[illegible]

**Business Improvement Districts:
Potential for Public/Private Conflicts**

By

Mark E. Mandell
Mandell Municipal Counseling

August 17, 2017

I. Introduction

Over the past several decades, Business Improvement Districts (“BIDs”) have become an increasingly common feature of downtowns and other commercial areas. Business owners and their landlords often appreciate BIDs because they provide localized marketing, sanitation, security, and other services. These services can help commercial areas that are oriented along public streets to more effectively compete with privately owned and managed commercial developments. Cities find BIDs attractive because—with minimal investment of general fund tax dollars—a BID can help “liven up” an aging commercial area, ideally leading to increased civic pride, economic development, and increased tax revenue for the city.

Because their proponents promise that BIDs will be largely self-managed and self-funded, cities sometimes allow them to be formed with minimal involvement from city staff and elected officials. This can lead to problems down the road. The establishment and operation of a BID involves a fair amount of cooperation between entities that often have distinct--and sometimes conflicting—interests and goals. The purpose of this paper is to identify some issues that city attorneys may want to discuss with city management and staff at the beginning of the establishment process.

II. What is a BID?

A. Basic Description.

Many possible conflicts stem from misunderstandings about the basic nature of BIDs. Therefore, it might be helpful to start off by explaining what a BID is. For this paper, I propose the following description:

A Business Improvement District is a program of a city under which the city levies an assessment against businesses or property to fund services or improvements that benefit the assessed businesses or property.

The program of services, improvements, and assessments are described in documents created during the establishment process. The description of the program is typically created by a BID consultant. A city council can only establish a BID after the owners of the businesses or property have indicated their support (or lack of opposition) for the BID via a petition; a ballot or protest proceeding; or both.

Services and improvements are generally provided by a nonprofit organization, often called an ‘owners’ association,’ which is under contract to the city. The owners’ association also generally prepares an annual report, which is used by the city as the basis for annual decision making.

Below, I describe in more detail each aspect of this description.

B. “A Business Improvement District is a program of a city...”

Two statutory schemes authorize the establishment of BIDs: (i) the Parking and Business Improvement Area Law of 1989¹ (the “’89 Law”) and (ii) the Property and Business Improvement District Law of 1994² (the “’94 Law”).³ BIDs governed by the ’89 Law are funded by assessments against businesses. BIDs governed by the ’94 Law can be funded by assessments against businesses, assessments against property, or a combination of the two types of assessments.

All cities have the authority to utilize their choice of the ’89 Law or the ’94 Law.⁴ In addition, charter cities, unless prohibited by the terms of their charter, can use their home rule powers to levy assessments and establish BIDs.⁵ Typically, when a charter city proceeds in this manner, it adopts a local “procedural ordinance” that incorporates as municipal law the terms of either the ’89 Law or the ’94 Law, with locally desired modifications.⁶ BID proceedings are then conducted directly under the procedural ordinance, rather than pursuant to state law.

The term “business improvement district” is commonly used to refer to all BIDs, whether created under the ’89 Law, the ’94 Law, or a typical charter city procedural ordinance.⁷ However, none of these authorities authorize the creation of a special district, as that term is normally used under California Law.⁸ BIDs are not entities that have a separate legal existence from the cities that establish them, nor are BIDs political subdivisions that have their own governing boards.⁹

Instead, a BID is a form of assessment district, not unlike assessment districts formed under the Landscaping and Lighting Act of 1972¹⁰ or the Benefit Assessment Act of 1982¹¹. In this context, a “district” is understood not to mean a “governmental subdivision”, but to mean “an area fixed,

¹ Str & Hwy Code §36500 *et seq.*

² Str & Hwy Code §36600 *et seq.*

³ Some older BIDs were established under the Parking and Business Improvement Area Law of 1965 (Str & Hwy Code §36000 *et seq.*). Such BIDs were funded by special taxes, rather than by benefit assessments. Because the California Constitution now requires two-thirds voter approval for special taxes, new BIDs are rarely, if ever, established in this manner. (*see* Cal. Const. Art. XIII A, §4 and Cal. Const. Art. XIII C, §2 for voting requirements).

⁴ Although this paper will refer generically to “cities”, BIDs can also be established by counties and by certain joint powers authorities. (Str & Hwy Code §36508 [’89 Law] and §36608 [’94 Law]). A city can create a BID that extends into another city, or an unincorporated area of a county, but only with the consent of the relevant city councils or county boards of supervisors. (Str & Hwy Code §36521.5 [’89 Law] and §36620.5 [’94 Law]).

⁵ *See, Redwood City v. Moore* (1965) 231 Cal.App.2d 563, 582 [home rule authority to levy assessments].

⁶ Common types of modifications include changes to the types of services and improvements that can be funded, changes to petition requirements, and changes to time limits on the life of a BID before it must be renewed.

⁷ Technically, a BID established under the ’94 Law is a “property and business improvement district” (Str & Hwy Code §36614.5) while a BID established under the ’89 Law is a “parking and business improvement area” (Str & Hwy Code §36511). The word “district” appears nowhere in the ’89 Law.

⁸ *See, e.g.,* Gov’t Code §56036(b)(5) (excluding “special assessment districts” from the class of special districts subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000).

⁹ Note that, in contrast with statutory schemes that permit the creation of special districts, the ’89 Law and the ’94 Law do not include authorizations for BID’s to exercise so-called “corporate powers,” such as the right to sue and be sued or the right to enter into contracts. (*see, e.g.,* Gov’t Code §61060 *et seq.* [community services districts] and Hlth & Saf Code §13861 [fire protection districts]). Instead, the city exercises its own corporate powers when administering the BID program.

¹⁰ Str & Hwy Code §22500 *et seq.*

¹¹ Gov’t Code §54703 *et seq.*

established, and formed by a city...that is specially benefited by, and assessed, or to be assessed, to pay the costs and expenses” of that which is funded by the assessment.¹² A BID is not, itself, a unit of government. Instead, a BID is a program of the city that establishes it.

C. “...under which the city levies an assessment against businesses or property...”

In most downtowns and commercial areas, it is common for businesses to rent the spaces in which they operate, rather than own their own buildings. In that situation, assessments against businesses are paid by assessed business, while assessments against property are paid by the landlords. Note, however, that it is common for commercial leases to pass on special assessments to tenants in what amounts to an automatic rent surcharge.

Assessments against businesses are usually collected by cities along with their business license taxes.¹³ Assessments against property are usually collected on the property tax roll.¹⁴

The practice of collecting BID assessments along with existing taxes almost certainly increases compliance and reduces collection costs. Nonetheless, cities do incur costs associated with these collection methods, and counties do deduct a service charge from assessments that they collect on the tax roll on a city’s behalf.

Under the ’94 Law, no assessment can be levied against “properties zoned solely for residential use, or that are zoned for agricultural use.”¹⁵ Presumably, this restriction can be omitted from charter city local procedural ordinances.

D. “...to fund services or improvements...”

BIDs most commonly fund services, such as security services, sanitation services, and marketing services.¹⁶ So long as the services properly benefit assessed businesses or property, the scope of services that can be provided under either the ’89 Law or the ’94 Law is essentially unrestricted.¹⁷

BIDs can also acquire, construct, install, and maintain improvements. These might take the form of bus benches, trash receptacles, or other street furniture. It is also common for BIDs to install

¹² This definition is borrowed by me from Gov’t Code §56075, which defines “special assessment district” for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

¹³ Assessments against hotels in connection with BIDs that fund tourism-related services are usually collected by cities along with transient occupancy taxes, and calculated as a percentage of rents. Because hotel BIDs, which generally encompass the entire territory of a city but only involve assessments against hotels, involve a different set of issues than typical BIDs, they will not be further discussed in this paper.

¹⁴ The ’94 law provides that “assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment.” (Str & Hwy Code §36631). Gov’t Code §51800 authorizes the collection of municipal assessments (implicitly including assessments levied under a charter city procedural ordinance) by counties along with property taxes.

¹⁵ Str & Hwy Code §36632.

¹⁶ Both the ’89 Law and ’94 Law use the term “activities” rather than “services.” However, due to the requirements of Propositions 218 and 62, it can be analytically useful to analyze all activities of BID, including the public events that have traditionally been funded by BIDs, as services being provided to assessed businesses or properties.

¹⁷ Str & Hwy Code §36513 (’89 Law) and Str & Hwy Code §36606 (’94 Law).

banners on existing street lighting standards (poles). The scope of permissible improvements is very broad, essentially encompassing any tangible property with an estimated useful life of at least five years.¹⁸

E. "...that benefit the assessed businesses or property."

Proposition 218, which was adopted by the voters in 1996 and added Articles XIII C and XIII D to the California Constitution, sets forth requirements that assessments against property must be tied to "special benefits."

For purposes of Proposition 218, "special benefit" means:

[A] particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."¹⁹

The "special benefit" requirements are that:

An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.²⁰

¹⁸ Str & Hwy Code §36510 ('89 Law) and Str & Hwy Code §36610 ('94 Law).

¹⁹ Cal.Const. Art. XIII D, §2(i). Str & Hwy Code §36615.5, a provision of the '94 Law, attempts to further define "special benefit" to mean:

[A] particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

This definition incorporates language from *Dahms v. Downtown Pomona Property* (2009) 174 Cal.App.4th 708, which interprets Proposition 218 in the context of a BID. Note, however, that the constitutional language of Proposition 218, as interpreted by *Dahms* and other published court decisions such as *Silicon Valley Taxpayers Assn v. Santa Clara County Open Space Auth* (2008) 44 Cal.4th 431, has superior authority to statutory language in the '94 Law. Str & Hwy Code §36622(k)(2) also restates certain requirements of Proposition 218, incorporating language from *Dahms*.

²⁰ Cal.Const. Art. XIII D, §4(a).

Assessments against businesses are not subject to the requirements of Proposition 218.²¹ However, as a result of the adoption by the voters in 2010 of Proposition 26, an assessment against businesses requires two-thirds voter approval as a special tax unless it meets one of several enumerated exceptions.²² The exceptions most relevant in the context of BIDs are for:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege. [or]

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.²³

Under Proposition 26:

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.²⁴

A complete discussion of the requirements of Propositions 218 and 26 is beyond the scope of this paper. It is often a useful exercise, when designing a BID program under either set of rules, to describe each service in terms of being provided to the businesses or property assessed, and then describe why that service would be useful to assessed businesses or property. This is most easily done for services that are provided directly in front of a business or property (such as security or sanitation), are clearly done on behalf of businesses (such as directories and wayfinding aids), or are events that can be participated in only by assesses (such as training programs and seminars). It can be more difficult in connection with sponsorship of events, such as concerts-in-the-square,

²¹ *Howard Jarvis Taxpayers Assn v. City of San Diego* (1999) 72 Cal.App.4th 230.

²² Cal.Const. Art. XIII C, §§ 1(e) & 2(d).

²³ Cal.Const. Art. XIII C, §§ 1(e)(1) & 1(e)(2). Gov't Code §53378 attempts to further define "specific benefit" and "specific government service" for purposes of these constitutional provisions. It provides that:

A specific benefit is not excluded from classification as a "specific benefit" merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.

It also provides that:

A specific government service is not excluded from classification as a "specific government service" merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor. A "specific government service" may include, but is not limited to, maintenance, landscaping, marketing, events, and promotions.

No court has interpreted the applicability of these definitions with respect to the constitutional language.

²⁴ Cal.Const. Art. XIII C, §1(e).

that are attended by the public but are arguably provided to the businesses as a means of attracting customers to assessed businesses.

F. “The program of services, improvements, and assessments are described in documents created during the establishment process.”

The '94 Law requires that a “management district plan,” containing specific information about the proposed BID, be prepared for each BID at the beginning of the establishment process.²⁵ Additionally, if assessments are to be levied against property, Proposition 218 requires that the assessment be supported by a “detailed engineers report” prepared by a registered professional engineer.²⁶ The engineers report typically includes, among other things, analysis describing how the proposed assessment complies with the substantive requirements of Proposition 218.

These documents are sometimes combined into a single document; otherwise the engineers report is included as an exhibit to the management district plan.²⁷ In either event, it is important that these documents be prepared together, as the services, improvements, and assessments described in the management district plan must be supported by, and consistent with, the descriptions and analysis contained in the engineer’s report.

The management district plan and engineers report, together with resolutions adopted by the City Council during the establishment process, serve as a sort of “constitution” for a '94 Law BID. Though the '89 Law does not require a management district plan or an engineers report, the resolutions and ordinances establishing an '89 Law BID contain much of the information required of a management district plan and similarly serve as the “constitution.”

G. “The description of the program is typically created by a BID consultant.”

While BID programs can be designed in-house or by the business or property owners who propose establishment of the BID, it is typical for these programs to be created by a specialized BID consultant. Consultant fees are sometimes paid by the city and are sometimes paid by BID proponents. It is not uncommon to reimburse these costs from the initial BID assessments; however, if the BID is not successfully established, there will be no assessments from which to make reimbursements. In that event the city (or the proponent group) will have essentially lost the money it advanced.

Regardless of who pays the consultant’s bills, consultants typically work very closely with the proponent group as a starting point for designing the BID program. They then meet with other business and property owners at community meetings and via one-on-one contacts. A key goal of consultants is typically to develop a program that has wide support and is likely to be approved (or not to be protested) by affected business or property owners. It is not uncommon for BID

²⁵ Str & Hwy Code §§36621 and 36622. Note that pursuant to §36621(b), the management district plan must be available made available upon request during the petition process. Therefore, the management district plan must be completed prior to the commencement of circulation of the petition.

²⁶ Cal.Const. Art. XIII D, §4(b).

²⁷ Str & Hwy Code §36622 provides that “The management district plan shall include... (n) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.”

consultants to continue in an administrative or consulting role once a BID is formed. Those services are typically funded with BID assessment proceeds.

H. “A city council can only establish a BID after the owners of the businesses or property have indicated their support (or lack of opposition) for the BID via a petition; a ballot or protest proceeding; or both.”

Establishment of a BID under the '89 Law requires the following steps:

1. The city council adopts a “resolution of intention” setting forth the details of the BID program, a date and time for a public hearing, and other information required by statute.²⁸
2. Within seven days of adopting the resolution of intention, a complete copy of that resolution must be mailed to each business owner in the territory of the proposed BID.²⁹
3. The city must mail to each business a “joint notice of public meeting and public hearing.”³⁰ This “joint notice” is typically mailed along with the copy of the resolution of intention.
4. No earlier than ten days after mailing the “joint notice,” the city council must hold “at least one public meeting at which [the city council] shall allow public testimony regarding the proposed...new...assessment.”³¹
5. No earlier than forty-five days after mailing the joint notice, and no earlier than seven days after the public meeting, the city council must hold a public hearing.³²
6. At the public hearing, the city council must consider oral and written protests.³³ If written protests meeting the requirements of Section 36524 of the Streets & Highways Code are received (and not withdrawn) from “the owners of businesses in the proposed area which will pay 50 percent or more of the assessments proposed to be levied”, then proceedings must be abandoned for no less than one year.³⁴ Otherwise, the city council may (but is not required to) adopt an ordinance establishing the BID.³⁵

Establishment of a BID under the '94 Law requires the following steps:

1. Proponents circulate a petition, and obtain signatures from “property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied.”³⁶ If any proposed assessee will pay more than 40 percent of the assessment, that assessee’s obligations in excess of 40 percent do not count towards this calculation.³⁷ The '94 Law requires that the petition include a summary of the management district plan,

²⁸ Str & Hwy Code §36522.

²⁹ Str & Hwy Code §36523(b).

³⁰ Str & Hwy Code §36523.5 and Gov’t Code §§54954.6(a)(2) & 54954.6(c)

³¹ Gov’t Code §§54954.6(a)(1) & 54954.6(c)(1).

³² Gov’t Code §§54954.6(a)(2) & 54954.6(c)(1).

³³ Str & Hwy Code §36523.5.

³⁴ Str & Hwy Code §36525(a). However, “if the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated.” (Str & Hwy Code §36525(b)).

³⁵ Str & Hwy Code §36527. The city council may, at this time, make certain modifications to the proposed BID, such as eliminating territory from the BID or reducing all assessments. (Str & Hwy Code §36526).

³⁶ Str & Hwy Code §36621(a).

³⁷ *Ibid.*

which must include: (i) “a map showing the boundaries of the district;” (ii) “information specifying where the complete management district plan can be obtained;” and (iii) “information specifying that the complete management district plan shall be furnished upon request.”³⁸

2. The city council adopts a “resolution of intention.”³⁹
3. If the BID includes assessments against property, the city must conduct a property-owner assessment ballot proceeding pursuant to Proposition 218.⁴⁰ This involves mailing a notice and ballot to each affected property owner at least forty-five days prior to the public hearing. For more information about conducting assessment ballot proceedings, refer to the League of California City’s Proposition 26 & 218 Handbook.
4. If the BID includes assessments against businesses, the city must notice and conduct a public meeting and public hearing pursuant to Section 54954.6 of the Government Code, as outlined in the discussion of the ’89 Law.⁴¹
5. The city council holds a public hearing.
6. After conducting the public hearing, the city council must abandon proceedings in connection with an assessment against property if the ballots submitted (and not withdrawn) in opposition to the assessment against property exceed the ballots submitted (and not withdrawn) in support of that assessment.⁴² For purposes of this calculation, ballots are weighted by the amount of the assessment obligation of the parcel.⁴³
7. After conducting the public hearing, the city council must abandon proceedings for at least one year in connection with an assessment against businesses, if written protests meeting the requirements of Section 36623(b) of the Streets & Highways Code are received (and not withdrawn) from “the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied.”⁴⁴
8. Except to the extent it is required to abandon proceedings by virtue of protests or the assessment ballot proceedings, the city council may (but is not required to) adopt a resolution of formation that establishes the BID.⁴⁵

By adopting a local procedural ordinance, a charter city can change or eliminate these requirements, except for the assessment ballot proceeding requirements applicable under

³⁸ Str & Hwy Code §36621(b).

³⁹ Str & Hwy Code §36621(c).

⁴⁰ Str & Hwy Code §36623(a). Such proceedings are governed by Cal.Const. Art XIII D, §4 and Gov’t Code §53750 *et seq.*

⁴¹ Str & Hwy Code §36623(b).

⁴² Gov’t Code §§53753(e)(4) & 53753(e)(5).

⁴³ Gov’t Code §§53753(e)(4)

⁴⁴ Str & Hwy Code §36623(b).

⁴⁵ Str & Hwy Code §36625(a). The city council may, at this time, make certain modifications to the proposed BID, such as eliminating territory from the BID or reducing assessments. (Str & Hwy Code §36624). If only the assessment against property or the assessment against businesses has been blocked by protests or the ballot proceeding, and the other type of assessment has also been a part of the proceedings, then the other type of assessment may still be adopted as proposed. (Str & Hwy Code §36623(c)).

Proposition 218 to assessments against property and the notice, meeting, and hearing requirements applicable under Section 54954.6 of the Government Code to assessments against businesses.

It is not unusual for cities, including general law cities, to create additional procedural steps, such as a petition requirement for BIDs established under the '89 Law. One reason for imposing additional requirements can be to gauge stakeholder interest before using municipal resources to develop a BID program. Cities can impose such requirements because under both the '89 Law and the '94 Law a city council always has the discretion (i) not to adopt a resolution of intention to establish a BID and (ii) not to establish a BID. Consequently, city councils can impose additional requirements on BID proponents by refraining from taking action on a BID unless both locally requirements and statutory requirements have been met.

I. "Services and improvements are generally provided by a nonprofit organization, often called an 'owners' association'..."

Cities can structure BIDs so that the services and improvements are provided directly by the city. However, it is much more common for services and improvements to be provided either by an existing nonprofit organization (such as a chamber of commerce) or by a nonprofit organization formed by BID proponents specifically to serve the BID. Such a nonprofit is often called an "owners' association."

Owners' associations are governed by their articles of incorporation and bylaws. They usually are governed by a board of directors that is elected, in a self-administered proceeding, by the business or property owners subject to the assessment. Those owners usually constitute the membership of the association. The associations usually have an administrative staff (sometimes consisting of little more than an executive director), but often contract with specialized firms, such as security firms, to provide most services and improvements.

The '94 Law permits the management district plan to specifically identify an owners' association and to mandate the use of that association. Specifically, the '94 Law provides:

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.⁴⁶

The '94 Law further provides that:

An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act [California's open meetings law] at all times when matters within the subject matter of the district are heard, discussed, or

⁴⁶ Str & Hwy Code §36651.

deliberated, and with the California Public Records Act for all records relating to activities of the district.⁴⁷

While the '89 Law does not include the concept of an “owners’ association,” the use of this type of nonprofit organization for delivery of services is common in connection with '89 Law BIDs. Additionally, the '89 Law does require the appointment by the city council of an “advisory board” which has duties in connection with annual proceedings.⁴⁸ It is common for city councils to appoint the board of directors of the owners’ association to serve in this role.

J. “...which is under contract to the city.”

The relationship between a city and an owners’ association is contractual.⁴⁹ Typically the core provisions of the contract between a city and an owners’ association are that:

- (i) the city agrees to pay the owners’ association the proceeds of the BID assessment, sometimes with a deduction for administrative and collection costs incurred by the city; and
- (ii) the owners’ association agrees to use those proceeds to fund BID services and improvements as set forth in the management district plan and/or other documents governing the BID.

These contracts also usually include most of the provisions that are typically found in municipal contracts, such as insurance, audit, termination, reporting, and similar provisions.

The '94 Law provides that “the city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.”⁵⁰

K. “The owners’ association also prepares an annual report, which is used by the city as the basis for annual decision making.”

Both the '89 Law and the '94 Law require that annual reports be filed with the City Council.⁵¹ These reports (i) must include specified information about the BID services, improvements, assessments and budget for the upcoming fiscal year and (ii) may propose changes to the BID.⁵²

⁴⁷ Str & Hwy Code §36612 (citations omitted).

⁴⁸ Str & Hwy Code §36530.

⁴⁹ See, e.g., Str & Hwy Code §36651 (“Owners’ association’ means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan.”)

⁵⁰ Str & Hwy Code §36634. This provision does not make clear at what point in the process it is appropriate to enter into such a contract, or who would be the other party to that contract.

⁵¹ Str & Hwy Code §36533 (filing requirement for advisory boards under '89 Law) and Str & Hwy Code §36650 (filing requirement for owners’ associations under '94 Law). Under the '94 Law, no report is required before the first year of operations. (Str & Hwy Code §36650(a)).

⁵² *Ibid.* Care should be taken to ensure that any changes would not increase an assessment or expand the businesses or properties subject to assessment. Such changes are subject to the procedures set forth in Proposition 218 or Gov’t Code §§54954.6(a) & 54954.6(c).

Additionally, though not required, it is common for these reports to include a summary of achievements and activities from the concluding fiscal year.

Under the '89 Law, each fiscal year, in order to levy the assessment, the city council must conduct annual proceedings. These proceedings involve the following steps:

1. The city council approves the annual report, either as filed by the advisory board or with modifications.⁵³
2. The city council adopts a resolution of intention.⁵⁴
3. Not less than seven days before the date scheduled in the resolution of intention for a public hearing, the city clerk publishes the resolution of intention once in a newspaper of general circulation in the city.⁵⁵
4. The city council accepts oral and written protests and holds a public hearing.⁵⁶
5. Proceedings must be abandoned if written protests are received (and not withdrawn) from owners of businesses that will pay 50 percent or more of the assessments proposed to be levied.⁵⁷
6. Otherwise, the city council may adopt a resolution confirming the annual report (with or without changes) and levying the assessment for the fiscal year.⁵⁸

Under the '94 Law, after receiving the annual report, “the city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified.”⁵⁹ If the city council chooses to modify the report, it must conduct specific proceedings.⁶⁰

The '94 Law, unlike the '89 Law, does not require a public hearing and protest proceeding each year. However, each '94 Law BID has a limited duration (specified during establishment proceedings).⁶¹ The '94 Law provides that “Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment” set forth in the '94 Law.⁶² Consequently, while there is no annual public hearing, '94 Law BIDs are subject

⁵³ Str & Hwy Code §36533(c).

⁵⁴ Str & Hwy Code §36534(a).

⁵⁵ Str & Hwy Code §36534(b).

⁵⁶ Str & Hwy Code §§36535(a) & 36524.

⁵⁷ Str & Hwy Code §36525(a).

⁵⁸ Str & Hwy Code §§36525(b) & 36525(c).

⁵⁹ Str & Hwy Code §36650(c). It is not clear what happens if the city council rejects or takes no action on the report. Normally, it might be presumed that approval of the report is a prerequisite to the levy of the annual assessment. However, Str & Hwy Code §36625(b), relating to the adoption of the resolution forming a BID under the '94 Law, provides that “the adoption of the resolution of formation...shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.” This language implies that, as soon as a BID is established, the assessment is formally levied for all fiscal years of the planned life of the BID.

⁶⁰ Str & Hwy Code §§36650(c) & 36636(c).

⁶¹ Str & Hwy Code §36622(h) (management district plan must include “the specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds.”).

⁶² Str & Hwy Code §36660(a).

to periodic renewal/reestablishment proceedings that include all the steps required for establishment proceedings.

III. Conceptual Issues

The formal relationship between the public and private entities associated with the establishment and operation of a BID can often be confusing to stakeholders.

Much of this confusion occurs because stakeholders are not aware of the distinction between a business improvement district (which is a city program) and an owners' association (which is a private organization under contract to the city). Stakeholders frequently assume that an owners' association *is* a business improvement district. They also assume, effectively, that (i) a business improvement district is a type of special district that possesses governmental powers and (ii) the board of directors of the owners' association serves as the legislative body of that special district.

These assumptions can lead stakeholders to understand the BID establishment and operating process roughly as follows:

When petitioned by business or property owner stakeholders, a city holds a mail ballot election regarding establishment of a BID. If the stakeholders approve the ballot measure proposing the management district plan for the BID, then the BID is incorporated as a nonprofit corporation. The stakeholders, as members of the new BID, then elect a board of directors to govern the BID. The board of directors levies the assessment as set forth in the management district plan; hires staff; provides the services and improvements described in the management district plan; and issues annual reports that are filed with the city. The city assists the BID by acting as the BID's agent for collection of assessments.

Under this model, which is not supported by the relevant statutes, the owners' association takes on the role of a special district, and the city is reduced to a role somewhat like (i) the role a local agency formation commission plays in the formation of a new special district and (ii) the role a county plays in the collection of municipal taxes.

Some common practices lead to this confusion. In everyday speech, it is very common for city staff, elected officials, stakeholders and the public to refer to the owners' association as "the BID," to the owners' association board of directors as "the BID board," and to the executive director of the owners' association as "the executive director of the BID." Also, many owners' associations confusingly have the same name as the BID they serve (for example the Central Downtown Business Improvement District, Inc. might serve a BID called the Central Downtown BID). BID proponents also tend to stress, when speaking in support of the establishment of a BID, the concepts of BID self-governance, stakeholder control, and independence from the city.

A problem with this conception of BIDs is not only that it is technically incorrect, but also that it is potentially undemocratic. The services provided by BIDs to businesses and property are paid for through assessments against those businesses and properties, but have the potential to impact

the general public. Employees and contractors of owners' associations often patrol, clean, decorate and improve streets, sidewalks and other public spaces in the territory of a BID. But those spaces are still municipal property that is open to all members of the public. The owners' association, which is a private, internally governed, organization of business and property owners, does not govern these public spaces and cannot create enforceable rules of conduct for these spaces. Yet owners' associations often employ uniformed security personnel who operate on these spaces.

Because the membership of the owners' association is usually comprised of the businesses and property owners who are assessed; owners' associations often see BID assessment proceeds as "their money" rather than "public money." However, BID assessments are not dues voluntarily paid by members to a voluntary association. Assessments are a mandatory levy that must be paid by all assessed businesses or property owners, regardless of whether the business or property owner supported the assessment, desires to pay, or has chosen to "join" the owners' association. The levy of these sorts of involuntary assessments, even if supported in a mail ballot proceeding by most of those subject to the assessment, is power possessed by cities, but not generally possessed by private organizations. Assessment proceeds are public funds that are earmarked for a specific purpose.

Ultimately, a BID is a city program and the owners' association provides services under contract to the city. This can potentially lead to municipal liability for decisions and actions taken by the owners' association. Although owners' associations typically are insured and execute indemnities in favor of a city, often owners' associations are cash poor, with the assessments as their main source of funding. As a practical matter, it is impossible to entirely eliminate all legal risk to the city.

It is important that city staff and elected officials are aware of potential stress points in the relationship between cities and the entities and stakeholders associated with a BID.

IV. Things to Pay Attention To

A. Notices and Documents

The process of establishing a BID involves the production of a number of documents that are provided to business and property owners to help them understand what is proposed. These documents can include notices, petitions, ballots and management district plans. It is generally in the public interest that these documents be as complete, factual and neutral in tone as possible, since these documents are, for the most part, issued or approved by the city. If these documents are not complete, factual and neutral in tone, business and property owners can feel misled.

However, these documents are often initially drafted by proponents of the proposed BID or by consultants who work closely with those proponents. The proponents have a strong interest in "selling" the proposed BID to stakeholders who might sign petitions, submit protests, or cast ballots in connection with the proposed BID. Therefore, it is important that city legal and

management staff review these documents not only to ensure that they comply with applicable legal requirements, but also that they are complete, factual, and have an appropriate tone.

B. Specificity of Management District Plan

As noted earlier, a management district plan (or other council-adopted document) serves as the “constitution” for a BID. Proponents often desire that the Management District Plan include much flexibility regarding how money can be spent. This desire is understandable, given the difficulty of planning a new, long term program. However, too much flexibility can allow for delivery of a program that might not seem to match what was promised. Too much flexibility arguably can also undermine the benefit analysis that legally justifies the amounts of assessments. City staff should consider the level of flexibility that the city is comfortable with.

C. Security Services

Security services can be especially controversial. It is a good idea for city and police department management to explore early in the process what kind of security is envisioned in order to determine their comfort level with those plans.

D. Administrative Expenses

There are two sorts of administrative expenses associated with a BID: (i) expenses incurred by the city and (ii) expenses incurred by the owners’ association. It should be determined early on to what extent city expenses, such as expenses associated with collection of assessments, administration of the owners’ association contract, or administration of annual proceedings, will be funded from assessment proceeds. Especially if the owners’ association is an organization that has functions beyond providing BID services and improvements, it can be important to define what owners’ association administrative expenses can be funded with assessment proceeds. These choices should be covered in detail in the contract between the city and the owners’ association.

E. Cash Flow

The collection method used for assessments will affect the schedule on which a city received assessment proceeds. In some cases, this schedule may not synchronize well with the BID’s fiscal year. Care should be taken to make sure that all interested parties have a good understanding of the schedule on which proceeds are likely to be available; as well as the means for their use. Many cities transfer proceeds to the owners’ association as they come in. Other cities maintain proceeds in a segregated account, and use that account to reimburse the owners’ association for expenses or directly pay bills incurred by the owners’ association. These choices should be covered in detail in the contract between the city and the owners’ association, and should be discussed with proponents early in the process.

F. Proposition 26 and 218 Risk

Legal challenges against new assessments are not uncommon, and legal threats against new assessments are quite common. If an assessment is under challenge, or likely to be challenged, a city will commonly consider “impounding” the assessment proceeds until the challenge (or threat of challenge has ended). Cities explore the idea of impounding because they realize that once proceeds are paid to the owners’ association and expended on services, those proceeds will not be available for refunds or satisfaction of judgments. Impounding thus buffers a city’s general fund from refund/judgement risk. Owners’ associations, understandably, do not like impounding, since they cannot pay for services if their funding is being held by the city. It is a good idea to discuss this issue early in the process and document impounding rights, if any, in the contract between the city and the owners’ association.

As a related issue, proponents and owners’ associations may be less risk adverse with respect to Proposition 26 and 218 risks than the city. City legal staff should be aware of this possibility when reviewing engineers reports and assessment methodologies.

G. Policy Development

Proponents often hope that the owners’ association will play a role in helping the city develop policies and programs that might be desired by businesses or property interests. City management and legal staff should consider their comfort level with using assessment proceeds for this purpose.

H. Designation of Owners’ Association

The management district plan for a ’94 Law BID can designate a specific nonprofit organization that will serve as the owners’ association. Such a designation obligates the city to contract with that nonprofit. Theoretically, it could be very difficult for a city negotiate a contract with an owners’ association if it has no legal alternative to using that association. Furthermore, if the city is locked to a specific nonprofit, it may be difficult for the city to effectively enforce the contract. Consequently, city management and legal staff should consider whether such a designation in the management district plan is appropriate.

I. Baseline Services

Business and property owners often worry that cities will see the establishment of a BID as an opportunity to reduce existing services provided by the city within the territory of the BID. During the establishment process, it is common for proponents to ask cities for a formal contractual guarantee that these “baseline” services will be maintained if the BID is established. Such a guarantee, if given, would tie the hands of future city councils with respect to the expenditure of city general funds. As BIDs have long lives, and as it is impossible to predict city revenues and service levels into the far future, it is important for cities to give very careful consideration to any decision to grant such a guarantee. It can be very difficult to draft language that ensures baseline services within a BID, but does not interfere with future decisions about how to respond to future budgetary constraints or changes to city services.

J. Internal Organization of Owners' Association

Like any private corporation, an owners' association is governed by its articles of incorporation and bylaws. These documents determine who is a member of the corporation and how the corporation selects its board of directors. Outside of the BID context, a city generally has little interest in the internal organization of corporations that it contacts with. However, businesses and property owners subject to assessment in connection with a BID generally expect that the board of directors of an owners' association will be selected in an inclusive process that fairly involves all those subject to assessment. Cities therefore may want to have input into the provisions included in the bylaws.

As a related issue, despite efforts of owners' association officers and management staff to encourage stakeholder participation, owners' associations (especially owners' associations associated with small BIDs) often become dominated by a relatively small number of stakeholders who actively attend meetings and volunteer their time to work on association management or projects. There is a tendency for stakeholders who are not part of this dominant group to seek help from the city in solving perceived "leadership" problems with the association. City management and elected officials should be aware of this dynamic, and should consider the extent to which they are willing to become involved in helping to resolve these sorts of conflicts.

K. Meetings and Records

Business and property owners who serve on owners' association boards often are not used to the type of open meeting and open records requirements that have become second nature to long-time public officials and staff. Small owners' associations often have extremely small staffs, and therefore depend on board members to volunteer their time to directly perform management and operational functions. This dynamic can make it hard for board members to comply with open meeting laws. City management and legal staff should be aware of the possibility of this dynamic, and should consider the extent to which they will attempt to provide open meetings and open records training and support to owners' associations.

Where the nonprofit organization has functions that are unrelated to the BID for which it is owners' association, it can be difficult for the organization to determine which of its meetings and records are subject to open meeting and open record requirements.

L. Types of Businesses

Where the area to be served by a proposed BID is large or diverse, it is common for some types of businesses (or the owners of property occupied by those businesses) to be much less supportive of a proposed BID than others. For example, it is common for doctors, dentists and other professionals who don't depend on "drop-in" customers to be less supportive of a BID than retailers and restaurants. Similarly, when a business area is centered on a square or park, businesses that are relatively distant from the area center are often less interested. Often these businesses (or their landlords) benefit less from proposed services and improvements, and are

therefore subject to a lower assessment. However, despite a relatively low assessment, they may still remain opposed.

The petition, ballot proceedings, and protest rules applicable to BIDs all weight the “vote” (or voice) of a stakeholder by the amount of his or her assessment. This potentially means that a small number of stakeholders will account for a large majority of the weighted voice. Thus, it is sometimes possible for a BID to be established despite the existence of a large number of small stakeholders. City Management staff and elected officials may want to be aware of the possibility of this dynamic. A city council always has the option to not establish a BID, even if the BID has survived petition, ballot proceeding or protest hurdles.

V. Conclusion

BIDs can be an exciting type of public-private partnership. However, as noted in this paper, they can present a number of challenges for cities.

Many of these challenges can be mitigated if city management, city legal staff, and elected officials are aware of potential challenges and start thinking about them *early* in the process. As a practical matter, most issues are most effectively addressed by discussion before the management district plan is prepared and before the petition goes into circulation. It is not a good idea to rely entirely on the efforts of proponents, BID consultants, or junior city staff during the pre-petition phase. Doing so can have the effect of delegating key public policy choices to the proponent group. Therefore, it is a good idea to have management staff (including the police chief if a security program is proposed) active early on in meeting with proponents and BID consultants and to have management and legal staff carefully review the management district plan before it goes to petition.



CITY OF KINGSBURG

POLICE DEPARTMENT

1300 California Street, Kingsburg, CA 93631 (559) 897-4418

Neil Dadian
Chief of Police

To: Mayor & City Council

From: Corina Padilla

Date: September 11, 2019

Subject: August Crime Statistics & Prevention Update

- Part I Crimes increased by six.
- Other Offenses increased by 12.
- Traffic collisions increased by one.
- The number of arrests increased by five.
- Traffic citations decreased by 19.

We continue to use Facebook, Kingsburg PD mobile application, Twitter, and NIXLE as situations warrant in order to keep our citizens informed.

Kingsburg Police Department

Crime and Activity Report

Part 1 Crimes	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
Murder	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	2	0	0	0	0	0	0	0	0	0	0	2
Robbery	0	0	0	1	2	0	0	0	0	0	0	0	3
Aggravated Assaults	2	2	1	0	0	0	2	2	0	0	0	0	9
Burglary	10	14	3	6	6	3	2	4	0	0	0	0	48
Theft	11	6	3	9	6	9	10	10	0	0	0	0	64
Auto Theft	3	3	2	2	2	5	4	8	0	0	0	0	29
Total	26	27	9	18	16	17	18	24	0	0	0	0	155

Arson	0	0	0	0	0	0	0	0	0	0	0	0	0
--------------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------

Other Offenses:

Vandalism	10	4	4	6	4	6	7	10	0	0	0	0	51
Simple Assault	2	3	7	3	7	4	6	6	0	0	0	0	38
Sex Offense	0	1	2	1	1	1	0	1	0	0	0	0	7
Child Abuse	0	0	0	0	2	0	0	0	0	0	0	0	2
Narcotic Violations	3	1	4	3	3	6	6	7	0	0	0	0	33
Other Felonies	2	4	0	1	2	5	10	11	0	0	0	0	35
Other Misdemeanors	2	0	4	3	3	6	16	22	0	0	0	0	56
Totals	19	13	21	17	22	28	45	57	0	0	0	0	222

Other Statistics:

Incident Reports	19	19	9	31	11	69	90	25	0	0	0	0	273
Traffic Collision- Fatal	0	0	0	0	0	0	0	1	0	0	0	0	1
Traffic Collision- Injury	3	5	1	2	0	1	0	2	0	0	0	0	14
Traffic Collision- No Injury	3	2	4	7	1	3	7	5	0	0	0	0	32
Total	25	26	14	40	12	73	97	33	0	0	0	0	320

Calls for Service	721	556	844	717	835	824	731	688	0	0	0	0	5916
--------------------------	------------	------------	------------	------------	------------	------------	------------	------------	----------	----------	----------	----------	-------------

Arrests

Felony Adults	5	2	3	2	10	11	12	14	0	0	0	0	59
Misdemeanor Adults	24	19	12	8	10	19	14	16	0	0	0	0	122
Felony Juveniles	0	0	0	0	0	0	0	2	0	0	0	0	2
Misdemeanor Juveniles	0	0	1	0	0	0	1	0	0	0	0	0	2
Total	29	21	16	10	20	30	27	32	0	0	0	0	185

Traffic Citation Total	93	57	60	19	41	43	57	38	0	0	0	0	408
-------------------------------	-----------	-----------	-----------	-----------	-----------	-----------	-----------	-----------	----------	----------	----------	----------	------------

Motorcycle Hours	110	70	108	90	146	128	153	42	0	0	0	0	847
-------------------------	------------	-----------	------------	-----------	------------	------------	------------	-----------	----------	----------	----------	----------	------------

Volunteer Hours:													
Public Safety Volunteer	21.5	18	33	18.5	60.5	28	70	23.5	0	0	0	0	273
Police Intern	0	0	51	83.5	20	44.5	30.3	0	0	0	0	0	229.3
Total	21.5	18	84	102	80.5	72.5	100	23.5	0	0	0	0	502.3
Total Facebook Likes	4322	4325	4349	4386	4416	4445	4516	4565	0	0	0	0	
Total Twitter Followers	60	66	70	72	73	78	81	82	0	0	0	0	
Total App Subscribers	1150	1160	1165	1173	1176	1180	1184	1192	0	0	0	0	

Kingsburg Police Department
2019

Initiated	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Monthly %
Officer	348	238	417	285	342	370	308	274	0	0	0	0	2582	-11%
Citizen	373	318	405	409	468	454	423	414	0	0	0	0	3264	-2%
TOTAL	721	556	822	694	810	824	731	688	0	0	0	0	5846	-6%
Average Calls per Day	23.3	20	27	23	26	27	24	22	0	0	0	0		

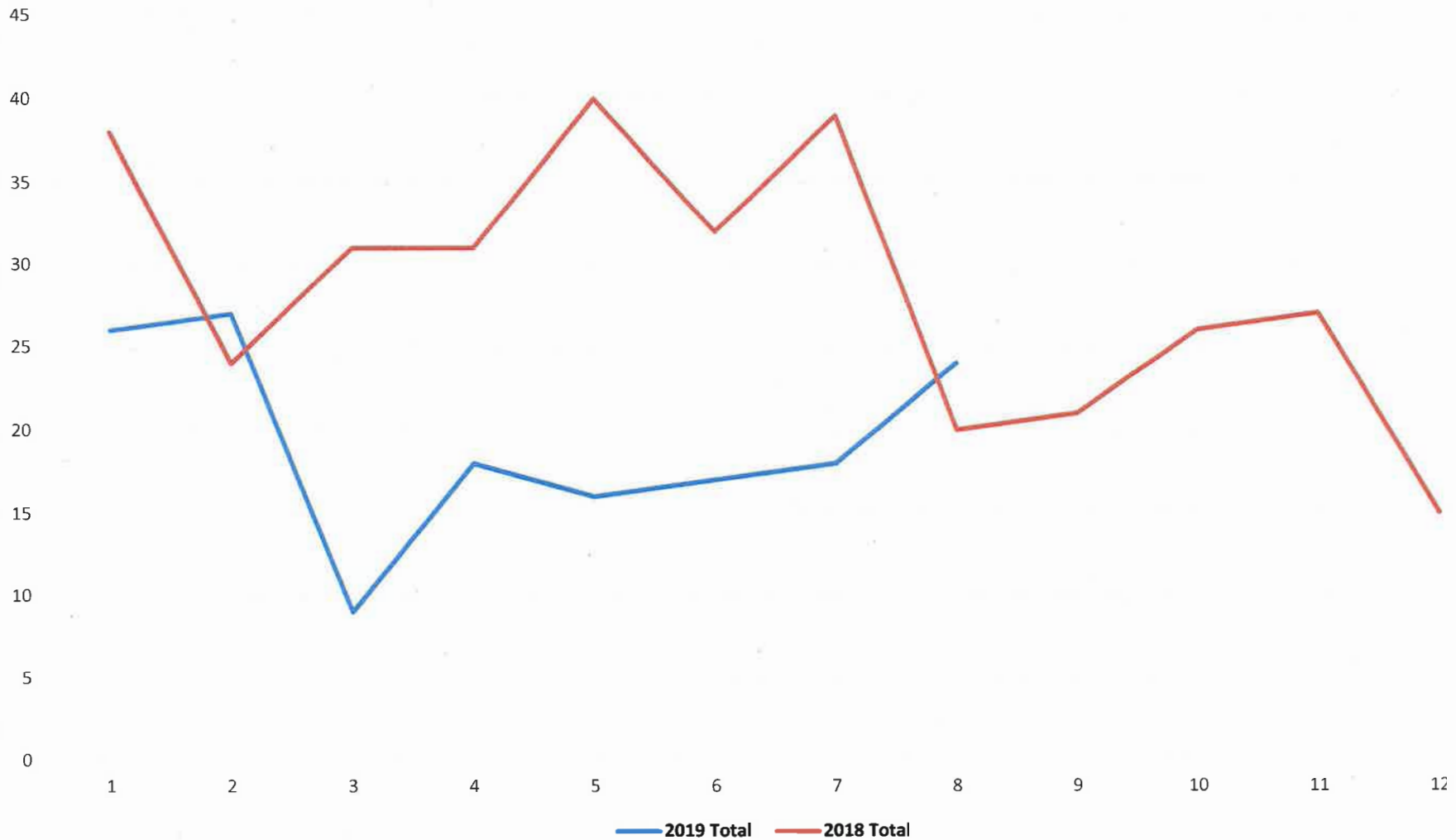
2019 Calls for Service



**Kingsburg Police Department
2019 Part I Crimes**

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	2018/2019
2019 Total	26	27	9	18	16	17	18	24					155	%Change
2018 Total	38	24	31	31	40	32	39	20	21	26	27	15	344	-39.00%

2018/2019 Part I Comparison



**Kingsburg Police Department
2019 Part I Crimes**

Part I Crimes	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Monthly % Change
Homicide	0	0	0	0	0	0	0	0					0	0%
Rape	0	2	0	0	0	0	0	0					2	0%
Robbery	0	0	0	1	2	0	0	0					3	0%
Agg. Assaults	2	2	1	0	0	0	2	2					9	0%
Burglary	10	14	3	6	6	3	2	4					48	100%
Larceny	11	6	3	9	6	9	10	10					64	0%
GTA	3	3	2	2	2	5	4	8					29	100%
2018 Total	26	27	9	18	16	17	18	24	0	0	0	0	155	33%

